



Office of the  
**Custodial  
Inspector**  
Tasmania



# Children in Tasmania's prisons

## Review report 2025

The Office of the Custodial Inspector acknowledges  
Tasmanian Aboriginal people as the Traditional Custodians  
of lutruwita/Tasmania. We recognise their continuing  
connection to Land, Sea, Waterways, Sky, and Culture and  
pay our respects to Elders, past and present.

## **Content warning**

This report includes descriptions of children's treatment and reactions while being held in custody in Tasmania's prison system. Some people may find this content distressing.

**Cover photo credit:** Ben Buckland – Photo of a cell in the Hobart Reception Prison watch-house. Two mattresses are side by side with two breakfast packs beside the mattresses. The toilet bowl is visible. The cell had been occupied by two children prior to the photo being taken.

**Back cover photo credit:** Ben Buckland – Photo of the Launceston Reception Prison main watch-house corridor. Cells for people on remand and sentenced are on the other side of the gate that is down the corridor. The two cells with light purple doors in the foreground are observation cells used for any people in custody at risk of suicide or self-harm. The main watch-house cells, which children can be placed in, are beside and opposite these observation cells.



## About this review

This review describes the findings and recommendations from the Custodial Inspector resulting from a review of children in custody in adult custodial facilities in Tasmania.

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## From the Custodial Inspector

Children should not be in prison. That is the clear conclusion that arises from this review report into the placement of children in prison watch-houses and the transfer of children from Ashley Youth Detention Centre (AYDC) to prison. Despite the significant youth justice reform agenda currently being undertaken in Tasmania in the aftermath of the 2023 *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (the Commission of Inquiry), the issue of children in prison watch-houses does not seem to feature. While the Commission of Inquiry did not focus on adult prisons and watch-houses, it noted that many of the issues it considered:

...will also have implications for children and young people in those settings. We encourage the Government to consider our recommendations broadly and approach implementation consistently in relation to children and young people in all custodial settings in Tasmania.<sup>1</sup>

To date, this has not been the Tasmanian Government's approach. We hope this report changes that.

Given the current debate in the community about youth crime, including the prospect of 'adult time for adult crime', it is timely to reflect on the realities of adult prison and whether, as a community, we actually want children in such an environment. This report demonstrates we should not. Too often in our inspection work we have spoken with children in AYDC only to later speak with them in prison. The trajectory is rarely positive, for the child or the community more broadly. Youth crime can lead to adult crime unless therapeutic strategies are effectively implemented. Keeping children out of prison watch-houses is an important element of a therapeutic approach to youth justice, yet these spaces are the entry point for almost every child that is taken into custody (and not eligible for police bail or unconditionally released). This needs to change.

The Tasmanian Parliament passed the *Child and Youth Safe Organisations Act 2023* with the aim of protecting and promoting the best interests of children.

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<sup>1</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(1):1.

One way the Act implements this objective is to require relevant organisations to comply with ten Child and Youth Safe Standards. For Tasmanian Government agencies, and therefore prison watch-houses, compliance with these standards is mandatory. This obligation commenced on 1 January 2024 for all government agencies, a few months before our inspection on which this report is based. Assessing compliance with the Child and Youth Safe Standards is the responsibility of the Office of the Independent Regulator rather than the Custodial Inspector and is therefore not the focus of this report. However, I wish to outline here some of the ways in which prison watch-houses fundamentally fail to reflect the Child and Youth Safe Standards.

Standard eight requires that physical environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed. Placing children in the same space as adults being held for a range of offences, including child sex offences, clearly does not meet this Standard. Many children have informed us that watch-houses are noisy and that they can hear adults shouting at all hours. One child told us that while in a watch-house they were subjected to threats of sexual abuse by an adult held in a cell nearby. This report examines in detail the many other ways in which the physical environment of Tasmanian prison watch-houses fails to promote the safety and wellbeing of children.

Standard five requires that people working with children are suitable and supported to reflect child safety and wellbeing values in practice. Yet correctional officers are exempt from the requirement to hold working with vulnerable people registration under clause 11 of the *Registration to Work with Vulnerable People Regulations 2024*, despite such registration being a critical measure to establish if someone is suitable to work with children. Concerningly, even my staff are not required to be registered to work with vulnerable people. I nonetheless require it. Tasmania Prison Service (TPS) does not.

Standard six requires that processes to respond to complaints and concerns are child-focused. My experience as Ombudsman has shown me that the complaints process for matters arising in prison watch-houses are not so. For example, they can take a considerable time to resolve, including addressing jurisdictional questions as the complaint is passed between Tasmania Police and TPS, two agencies involved in the care and custody of people in watch-houses. As discussed in this report, time for a child is relative and lengthy delays to resolve complaints are not in the best interests of children. Since the Standards are interrelated, a complaints process that is not child-focused also

relates to Standard two, which requires that children are informed about their rights, participate in decisions affecting them and are taken seriously.

This report also outlines that staff in prison watch-houses do not feel equipped to keep children safe via sufficient education and training, which is stipulated by Standard seven. This is despite the fundamental requirement for organisations subject to the Child and Youth Safe Standards to keep children safe from harm and abuse, and to promote their safety and wellbeing.

The Child and Youth Safe Standards are underpinned by the overarching principle of cultural safety. Entities must provide an environment that ensures that the right to cultural safety of children who identify as Aboriginal or Torres Strait Islander is respected. The data in this report clearly demonstrates the overrepresentation of Aboriginal children in prison watch-houses, particularly girls. The lack of services for children there raises questions as to whether the universal principle is being met.

Despite the commitment to improving standards, operational practices and services referred to later in this report, and concerns about the wellbeing of children in prison watch-houses, they nonetheless continue to be detained in them. Further, public officers, not courts, decide if children will be moved from AYDC to prison.

Implementing ‘adult time for adult crime’, apart from being inconsistent with the commitment referred to above, would also mean that children would be more likely to end up in prison to serve sentences – but to an extent they are already there. Clear strategies are required to address community concerns about youth crime along with information about why those strategies work in the long term. This report strongly suggests that the Tasmanian Government should maintain the course of seeking to implement a therapeutic approach to youth justice for all children.

I call on the Tasmanian Government to implement my recommendations in this report to comply with its obligation to keep children safe. Positively, key departments have supported the recommendations in whole or in part. The responses from the key government departments can be found in Appendix 1.

Richard Connock  
**Custodial Inspector**  
 June 2025

## Thank you

We would like to thank the children and adults in custody who shared their experiences with us. We greatly value their contributions.

We would like to thank the staff who engaged with us at the Department for Education, Children and Young People, Department for Premier and Cabinet and the Department of Justice. Whilst they are legislatively obligated to assist, their cooperation with the process is very positive.

This report arose because of an inspection we conducted using our draft *Expectations on the treatment of people deprived of their liberty in adult custodial centres*. These expectations will soon replace our inspection standards and will have expectations specific to a range of different groups. This inspection focused on new expectations for children and young people, both under 18 and 18- to 25-year-olds, in prison. We are indebted to Emeritus Professor Neil Morgan AM, the former Inspector of Custodial Services in Western Australia, who assisted in creating these expectations as well as with the inspection.

Our mandatory inspection report on this inspection will be tabled soon but it became apparent that the issue of children in prison watch-houses and their transfer from AYDC to prison demanded a standalone review report – this report. Professor Morgan is the primary author, and we are grateful for his extensive expertise.

We sent a draft copy of this report to multiple parties to seek their response and feedback. This included the:

- Department of Premier and Cabinet
- Department of Justice;
- Department for Education, Children and Young People;
- Department of Police, Fire and Emergency Management; and
- Department of Health.

Copies of the responses from these government departments, compiled by the Department of Premier and Cabinet, can be found in Appendix 1.

We consulted with the Interim Commissioner for Children and Young People, the Independent Regulator and the Child Safety Reform Implementation Monitor on the draft report. Three members from the Youth Justice Reform Expert Panel, which is connected to the Department of Premier and Cabinet, also provided feedback on the recommendations.

We appreciate their assistance.

We are grateful to Ben Buckland for providing the photos featured in this report.

## A note on terminology

This report uses the following terminology:

- ‘Children’ (and its variants) means people under the age of 18.<sup>2</sup>
- ‘Young adults’ means people aged 18 to 25 years.
- ‘Youth justice’ means laws, policies and practices for children who are above the age of criminal responsibility (currently ten years of age) but under the age of 18 years.
- We will often refer to male children as ‘boys’ and female children as ‘girls’.

Refer to paragraph [1.25] for a more detailed explanation.

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<sup>2</sup> This aligns with s 3 of the *Children, Young Persons and Their Families Act 1997*: see paras [1.25]-[1.26].

## List of recommendations

Prior to finalisation of this report, we consulted on a set of draft recommendations. This included receiving written feedback from various government departments. That feedback and the draft recommendations can be found in Appendix 1. We made amendments to those draft recommendations in response to the feedback. The final recommendations are listed below.

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### Recommendation 1

The Tasmanian Government should ensure that youth justice reform encompasses all settings where children are detained, including prison watch-houses. Officials responsible for this work should be informed by visiting the Hobart and Launceston Reception Prison watch-houses when children are in custody to observe and evaluate the facilities and practices, and to talk to the children, staff, and other people in custody.

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### Recommendation 2

The Tasmanian Government should collate, analyse and publish data on the use of prison watch-houses for children since August 2024.

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### Recommendation 3

The Tasmanian Government should develop a plan, with timelines, to minimise and then stop the use of prison watch-houses for children and ensure alternatives align with broader youth justice reform.

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#### **Recommendation 4**

The Tasmanian Parliament should apply the minimum age of detention (16 years of age) to prison watch-houses as well as youth detention centres.

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#### **Recommendation 5**

The Tasmania Prison Service should use all possible options to reduce the negative impacts of the prison watch-house environment on children. This should include greater use of culturally appropriate and gender-informed support persons, and measures to reduce the length of stay.

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#### **Recommendation 6**

The Tasmania Prison Service should ensure that records for all children in prison watch-houses are complete, accurate and accessible to relevant oversight agencies.

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#### **Recommendation 7**

The Tasmania Prison Service should ensure that girls and gender-diverse children are not disadvantaged in prison watch-houses. This includes ensuring that searches are conducted by people of the same or requested gender.

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#### **Recommendation 8**

The Tasmania Prison Service should ensure that all staff working with children are given trauma-informed, child-specific training that includes a focus on child development, gender and culture.

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### Recommendation 9

The Tasmanian Government should ensure the new Tasmanian Youth Justice Facility is designed, constructed and operated so that in future, no child will need to be transferred to a prison.

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### Recommendation 10

The Tasmanian Parliament amend s 25 of the *Youth Justice Act 1997* to:

- (a) remove the power of the Secretary to place children on remand in an adult prison; and
- (b) allow vulnerable young adults to be placed in the Tasmanian Youth Justice Facility where this is necessary for their safety, health and wellbeing.

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### Recommendation 11

The Tasmanian Government should ensure that the processes for transfer are based on legislation not a Memorandum of Understanding.

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### Recommendation 12

The Tasmanian Government should implement Recommendation 12.25 of the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* in full by the Commission's target date of 1 July 2026.

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# Chapter 1

## Introduction and overview

### Major youth justice reforms are underway

[1.1] *The Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (the Commission of Inquiry) examined youth detention at length. Its final report in September 2023 contained:

...harrowing details not only of allegations of child sexual abuse, but of a culture of unauthorised use of force, restraints and isolation and of belittling and humiliating behaviours allegedly used to dehumanise children and young people in detention.

For more than two decades, concerning incidents and risks to children at Ashley Youth Detention Centre have populated the media. The Tasmanian Government has been alerted to the risk of sexual abuse for children in state care on many occasions, including through the findings of previous reviews ...

Our Commission of Inquiry uncovered a pattern of the Government either ignoring reviews and recommendations, or implementing them without achieving meaningful or sustained reform.<sup>3</sup>

[1.2] In response to the Commission of Inquiry, Tasmania has embarked on an ambitious and wide-ranging overhaul of the way the State deals with children in trouble with the law. In December 2023, soon after the Commission of Inquiry's report was tabled, the government released the *Youth Justice Blueprint 2024-2034: keeping children and young people out of the youth justice system* (the Blueprint).<sup>4</sup>

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<sup>3</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(1):2.

<sup>4</sup> Department for Education, Children and Young People (2023) [Youth Justice Blueprint 2024-2034: keeping children and young people out of the youth justice system](#), Tasmania.

[1.3] The Blueprint set the scene for a whole of government approach to diverting children from custody and to providing meaningful, age- and gender-appropriate therapeutic interventions in both community and custody. Key elements of the Blueprint include:

- raising the age of criminal responsibility from 10 to 14 years;
- raising the minimum age of detention to 16 years;
- building a new facility to replace the Ashley Youth Detention Centre (AYDC); and
- introducing supported bail facilities to reduce the extent to which children are held in custody before being sentenced.

[1.4] The Department of Premier and Cabinet has established the Youth Justice Reform Taskforce to oversee the Blueprint's implementation.<sup>5</sup> The Department for Education, Children and Young People (DECYP) is the lead agency for delivering the reforms. This is entirely appropriate. DECYP is child-specific, covers a wide range of services for children, and is best placed to plan, deliver, coordinate and oversee service delivery. However, other departments are also involved with children in contact with the justice system, including Police, Health and Justice. One critical role of the Taskforce is therefore to ensure the cross-sector commitment and collaboration that are essential to effective reform.

[1.5] In December 2024, the Youth Justice Reform Taskforce released its *Youth Justice Model of Care* (the Model of Care). The Model of Care provides the framework and principles for Blueprint implementation:

The ... Model of Care ... provides a coordinated and consistent approach to the delivery of trauma-informed, evidence-based and culturally safe services to children and young people in contact with, or at risk of coming into contact with, the youth justice system, and supports their families across Tasmania.<sup>6</sup>

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<sup>5</sup> Keeping Children Safe (N.D) [Youth Justice](#), Keeping Children Safe website, Tasmanian Government, accessed 5 May 2025.

<sup>6</sup> Youth Justice Reform Taskforce (2024) [Youth Justice Model of Care](#), Department of Premier and Cabinet, Tasmania, p 4:

[1.6] In mid-2024, the Minister for Children and Youth announced that they had also established two advisory groups to help ensure ‘the Tasmanian Government’s whole system reform of youth justice takes an integrated and therapeutic approach, focused on the rights of children, rehabilitation and breaking the cycle of offending to create generational change.’<sup>7</sup> The two groups are:

- a ‘Youth Justice Reform Expert Panel’ to ‘provide independent advice on the Youth Justice Blueprint’; and
- a ‘Justice Reform Community Engagement Group’ to ‘provide input into the Youth Justice Model of Care’.<sup>8</sup>

[1.7] Across all government agencies, non-government service providers and other groups we have found a genuine, positive, enthusiastic and knowledgeable commitment to improving standards, operational practices and services encompassing all aspects of youth justice. Everyone is keen to maximise the opportunities presented by the Blueprint to improve services and to make Tasmania a national leader in youth justice.

[1.8] There is reason to be optimistic that Tasmania will become a national leader if it delivers on its intentions and plans. The Blueprint and Model of Care offer a strong starting point and are underpinned by therapeutic principles and clear strategic thinking. At the political level, there is some informed debate on issues such as childhood trauma, minimising the use of custody, and raising the age of criminal responsibility. The Youth Justice Reform Taskforce, the Youth Justice Reform Expert Panel and the Justice Reform Community Engagement Group are well-placed to steer and oversee change. However, political debate also includes advocates for tougher measures to reduce youth crime, such as the ‘adult crime, adult time’ provisions recently introduced in Queensland.

[1.9] It is essential that the reforms retain their focus on the wellbeing of young people, and that they embrace all aspects of youth custody, not just a new detention centre.

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<sup>7</sup> Jaensch R (29 August 2024) [Expert panel to oversee youth justice transition](#) [media release], Premier of Tasmania website, accessed 5 May 2025.

<sup>8</sup> Jaensch R (29 August 2024) [Expert panel to oversee youth justice transition](#) [media release], Premier of Tasmania website, accessed 5 May 2025.

## Reforms must include places run by the Tasmania Prison Service

### The Tasmania Prison Service plays a pivotal role in managing children in custody

[1.10] To date, the public focus in relation to youth custody has been on AYDC and on planning a replacement detention centre in Hobart (the Tasmanian Youth Justice Facility). However, the reform agenda will only succeed if it embraces all the situations where children are in custody. It must not miss or gloss over areas which have received less scrutiny than AYDC, such as police watch-houses and reception prison watch-houses.

[1.11] A police watch-house is ‘a building or part of a building at a police station used for the confinement of persons under arrest or otherwise lawfully detained in custody.’<sup>9</sup> A reception prison watch-house (a prison watch-house) is part of a prison where people are held after they have been processed by the police.<sup>10</sup> The Custodial Inspector’s jurisdiction extends to prison watch-houses but not to police watch-houses.<sup>11</sup>

[1.12] This report examines two situations where children are in the custody of Tasmania Prison Service (TPS) not DECYP:

- *Children in prison watch-houses.*<sup>12</sup> If a child is not eligible to be released to police bail after they have been arrested and processed, they are transferred into TPS custody in the watch-houses at either the Hobart or Launceston Reception Prisons.<sup>13</sup> The child will be held in the watch-house to await bail or a court appearance, and transferred to AYDC if remanded in custody. Chapter 2 of this report shows that, on average, there are more than 30 receptions of children into prison watch-houses

<sup>9</sup> *Youth Justice Act 1997*, ss 3(1) and 25A.

<sup>10</sup> *Youth Justice Act 1997*, ss 3(1) and 25A.

<sup>11</sup> Custodial Inspector Richard Connock told the inquiry *into Adult imprisonment and youth detention* that he is able to consider watch-houses in the reception prisons, but not in police cells; these are covered under the National Preventive Mechanism. See: Legislative Council of Tasmania: Sessional Committee Government Administration B (2025) [Adult imprisonment and youth detention: Targeted inquiry](#) (Final Report), p 302.

<sup>12</sup> See Chapters 2 and 3.

<sup>13</sup> See Tasmania Prison Service (2022) [Young People in Custody](#), Department of Justice website, accessed 05 May 2025.

each month. The children range from 11 to 17 years of age, and a third of them are girls.

- *Children transferred from AYDC to a prison.*<sup>14</sup> Children can be transferred from AYDC to an adult prison if they cannot be properly managed at AYDC. Chapter 4 of this report shows that transfers are rare (around one per year) and, at least in recent years, have involved children who are at least 17 and a half years of age.

[1.13] Section 25A of the *Youth Justice Act 1997* also contemplates a third situation where a child may be placed in a prison. It provides that if a ‘youth who is less than 19 years old’ is refused bail by a court, they are to be detained in a prison if, ‘in the opinion of the Secretary [of DECYP], it is not practicable to detain [them] in a detention centre.’ The main aim of Section 25A seems to be to allow young adults who have turned 18 to be held in a youth detention centre instead of a prison if they are denied bail. We are not aware of any cases where this section has resulted in a child being placed in prison.<sup>15</sup>

## Children in Tasmania Prison Service care are the most complex of Tasmania’s vulnerable children

[1.14] Both groups of children – those in prison watch-houses and those transferred from AYDC to prison – are some of the most vulnerable children in the State. The watch-house group is ‘fresh off the streets’. They are likely to be distressed, potentially volatile, and under the influence of alcohol or other drugs. They almost invariably have a background of trauma and often have a disability or mental health challenges.

[1.15] In terms of the second group, most children who are transferred to AYDC exhibit some form of complex, challenging, and high-risk behaviour, in the context of histories of trauma and disengagement. It follows that if some of these children need to be moved to a prison because AYDC cannot manage their behaviour, they represent the most vulnerable children amongst an already vulnerable group.

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<sup>14</sup> See paras [4.40]-[4.46].

<sup>15</sup> For further discussion and recommendations see Chapter 4.

[1.16] It is important to recognise that, as its name says, TPS is a prison service not a youth justice service. Its infrastructure, resources, staff, strategic planning, policies and training are overwhelmingly geared towards the safety, security and needs of adults, not children. And yet it is TPS that assumes care of the most complex children at times when they are at their most vulnerable, unsettled, challenging or unwell.

## Processes for transferring children from Ashley Youth Detention Centre to prison will be reformed

[1.17] The Commission of Inquiry gave detailed consideration to the issue of transfers from AYDC to a prison and recommended significant reforms. The Blueprint and the Model of Care do not mention the issue of transfers. However, as the package of youth justice reforms is being driven by the Commission of Inquiry's report, and all parties agree there is room for improvement, we have been advised that changes will be made.<sup>16</sup>

## Prison watch-houses are beyond the scope of reform

[1.18] The 2017 *National Royal Commission into Institutional Responses to Child Sexual Abuse* explicitly recommended that 'children are not placed in adult prisons'.<sup>17</sup> However, current youth justice reform documents do not consider the issue of children in prison watch-houses. When we undertook the consultations for this report in mid-2024, watch-house staff, unions and the Commissioner for Children and Young People were aware of the problem, but it did not feature on the reform agenda. This no doubt reflected the fact that the Commission of Inquiry did not examine the issue, though it did encourage the Government to implement its recommendations 'broadly' to include children and young people in adult custodial facilities.<sup>18</sup> The lack of current attention on this issue is surprising and disappointing given the number of children received in watch-houses, the conditions of the watch-houses (particularly being not fit for purpose to hold children) and the goal of holistic trauma-informed reform.

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<sup>16</sup> Letter dated 9 April 2025 from the Deputy Secretary Child Safety and Youth Justice Operations in DECYP to the Custodial Inspector. See also para [1.19].

<sup>17</sup> Royal Commission into Institutional Responses to Child Sexual Abuse (2017), [Final Report Contemporary detention environments](#) (recommendation 15.4), 15:15, 120.

<sup>18</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(1):1.

[1.19] On 22 January 2025, the Custodial Inspector wrote to the Youth Justice Reform Expert Panel raising concerns about children in prison watch-houses. By letter dated 9 April 2025, the Deputy Secretary Child Safety and Youth Justice Operations in DECYP advised that the Expert Panel had considered the matter at its meeting on 29 January 2025 and had subsequently visited the Hobart Reception Prison. The Deputy Secretary wrote:

While the issue of young people's placement in watchhouses is of great concern to the Expert Panel, the Commission of Inquiry did not make recommendations specifically in relation to watch-houses. As such, this matter falls outside of the Expert Panel's remit.<sup>19</sup>

[1.20] When other planned reforms are fully implemented, such as raising the age of criminal responsibility, raising the age of detention, new bail facilities, and more diversionary options, the number of children in watch-houses should decline. However, this will take time.

[1.21] The evidence in this report is that watch-houses are wholly inappropriate for children. We have concluded that the Tasmanian Government's commitment to 'whole-system reform of youth justice' with an 'integrated and therapeutic approach, focused on the rights of children'<sup>20</sup> will not be achieved unless watch-houses are included and prioritised. We hope this report will assist in that process. Although the issue was not addressed by the Commission of Inquiry, it must not fall by the wayside.

## Reforms to youth justice should prompt a focus on young adults

[1.22] The Commission of Inquiry's report, the Blueprint and the Model of Care relate only to children and young people under 18 years of age. They are obviously the immediate priority. But although people legally become 'adults' when they turn 18, they still have the same challenges, talents and potential they had before their birthday.

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<sup>19</sup> For further discussion see paras [3.25]-[3.32].

<sup>20</sup> The words of the Minister in December 2024: see para [1.6].

[1.23] Transitioning to adulthood is a process, not a date. It starts before the person turns 18 and extends at least into their mid-20s.<sup>21</sup> Even for young people who are not in conflict with the law, this is a difficult and challenging time. It is even harder for those who are in the criminal justice system. The principles and aspirations of the Blueprint and the Model of Care are generally just as relevant to young adults as to children.

[1.24] In our view, it would be wise for TPS and the Government to consider how to better meet the needs of this group, and to leverage off the principles that underpin the youth justice reforms. This will be in the best interests of the community and the State budget, not just the young person, because successful interventions with this age group will reduce the risks and costs of future reoffending. This will be the subject of a future report by the Custodial Inspector.

### Terminology: ‘children’, ‘young people’ and ‘youth’

[1.25] Tasmanian legislation uses several different terms to refer to people under the age of 18:

- Under Section 3 of the *Children, Young Persons and Their Families Act 1997*:
  - A ‘child’ is ‘a person under 18 years of age’.
  - A ‘young person’ is a ‘child who is 16 or 17 years old’.
- Under the *Youth Justice Act 1997*, ‘youth’ means ‘a person who is 10 or more years old but less than 18 years old’ at the time of an alleged offence.<sup>22</sup>

<sup>21</sup> This is recognised by the United Nations and the Australian Institute of Health and Welfare, who distinguish ‘children’ (young people under 15 years of age) from ‘youth’ (those aged 15 to 24): see para [1.28].

See United Nations (N.D) [Definition of Youth](#), United Nations website, accessed 05 May 2025; Australian Institute of Health and Welfare (2024) [Health of young people](#), Australian Institute of Health and Welfare website, accessed 05 May 2025.

<sup>22</sup> Section 3 of the *Youth Justice Act 1997*. If the age of criminal responsibility is increased to 14, as the Blueprint promises, the definition of ‘youth’ will need to be amended.

[1.26] In describing ‘children’ aged 16 or 17 as ‘young persons’, the *Children, Young Persons and Their Families Act* recognises that children of this age have started the transition to adulthood. But importantly, it regards everyone under 18 as a ‘child’.

[1.27] The legislative terminology follows through to the naming of bodies responsible for people under 18. For example: DECYP; the Commissioner for Children and Young People; the Youth Justice Division of the Magistrates Court; the Youth Justice Reform Taskforce; the Youth Justice Reform Expert Panel; the Youth Justice Blueprint; and the Youth Justice Model of Care.

[1.28] As this report focuses on young people aged 18-25 as well as those under 18, it would be confusing to use words such as ‘youth’ or ‘children and young people’. Young adults aged 18-25 are also ‘young people’. The word ‘youth’ carries different meanings to different people. For example, the United Nations (UN) and the Australian Institute for Health and Welfare (AIHW) refer to people under 15 as ‘children’, and people aged between 15 and 24 as ‘youth’.<sup>23</sup>

[1.29] For clarity and simplicity, this report therefore uses the following terminology:

- ‘Children’ (and its variants) means people under the age of 18.<sup>24</sup>
- ‘Young adults’ means people aged 18 to 25 years.
- ‘Youth justice’ means laws, policies and practices for children who are above the age of criminal responsibility (currently ten years of age) but under the age of 18 years.
- We will often refer to male children as ‘boys’ and female children as ‘girls’.

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<sup>23</sup> See United Nations (N.D) [Definition of Youth](#), United Nations website, accessed 05 May 2025;

Australian Institute of Health and Welfare (2024) [Health of young people](#), Australian Institute of Health and Welfare website, accessed 05 May 2025.

<sup>24</sup> This aligns with s 3 of the *Children, Young Persons and Their Families Act 1997*: see paras [1.25]-[1.26].

[1.30] We also believe that it is appropriate and accurate to use ‘children’, rather than ‘youth’ or ‘young person’ in this context. The terms ‘young person’ and ‘youth’ suggest a level of maturity that most of the children in conflict with the law do not have. It is well accepted that the developmental age of most children appearing in the courts is significantly lower than their chronological/birth age, and that most have backgrounds of trauma, disability and disengagement.<sup>25</sup>

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<sup>25</sup> Malvaso C, Day A, Cale J, et al (2022) [‘Adverse childhood experiences and trauma among young people in the youth justice system’](#), *Trends and Issues in Crime and Criminal Justice*, (651)1:19;  
 National Mental Health Commission (2023) [Justice and Child Wellbeing Reform across Australia](#), Australian Government;  
 Costello EJ, Maughan B (2015) [Annual research review: optimal outcomes of child and adolescent mental illness](#), *Journal of Child Psychology and Psychiatry, and Allied Discipline*, 56(3):324-41;  
 Australian Institute of Health and Welfare (2021) [Youth Justice in Australia 2019-20](#), Australian Institute of Health and Welfare website, accessed 05 May 2025;  
 Bower C, Watkins RE, Mutch, RC, et al ( 2018) [Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia](#), *British Medical Journal Open*, 8(2)1-11.

## Chapter 2

### Children in prison watch-houses: the evidence

[2.1] This chapter examines the following questions:

- When are children placed in prison watch-houses?
- What are the watch-houses like?
- What is the profile of the watch-house children (number, age, gender, Aboriginality)?
- How long are they held in the watch-houses?
- Do searches meet the requirements and expectations of the *Youth Justice Act 1997*?

Chapter Three reviews the evidence and makes recommendations.

#### When are children placed in prison watch-houses?

[2.2] Children are held in the Hobart and Launceston Reception Prison watch-houses if the police, having concluded their initial inquiries, find the child ineligible for bail, or if they grant bail on conditions and the child is to be kept in custody until they meet those conditions.<sup>26</sup>

[2.3] Table 1 sets out the various scenarios:

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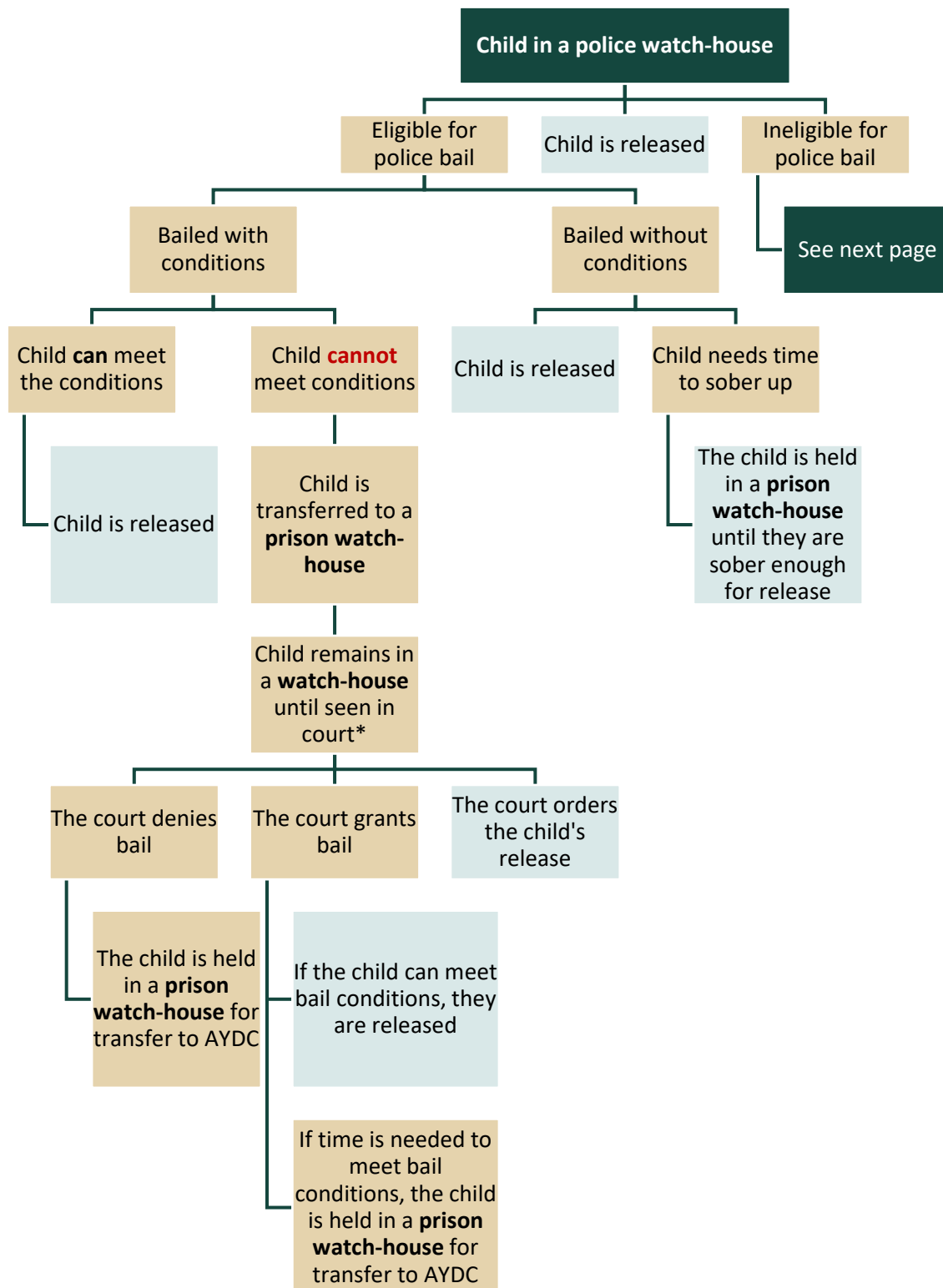
<sup>26</sup> Police powers in relation to bail are governed by legislation, relevant court decisions, and police manuals.

*Table 1. When are children placed in prison watch-houses?*

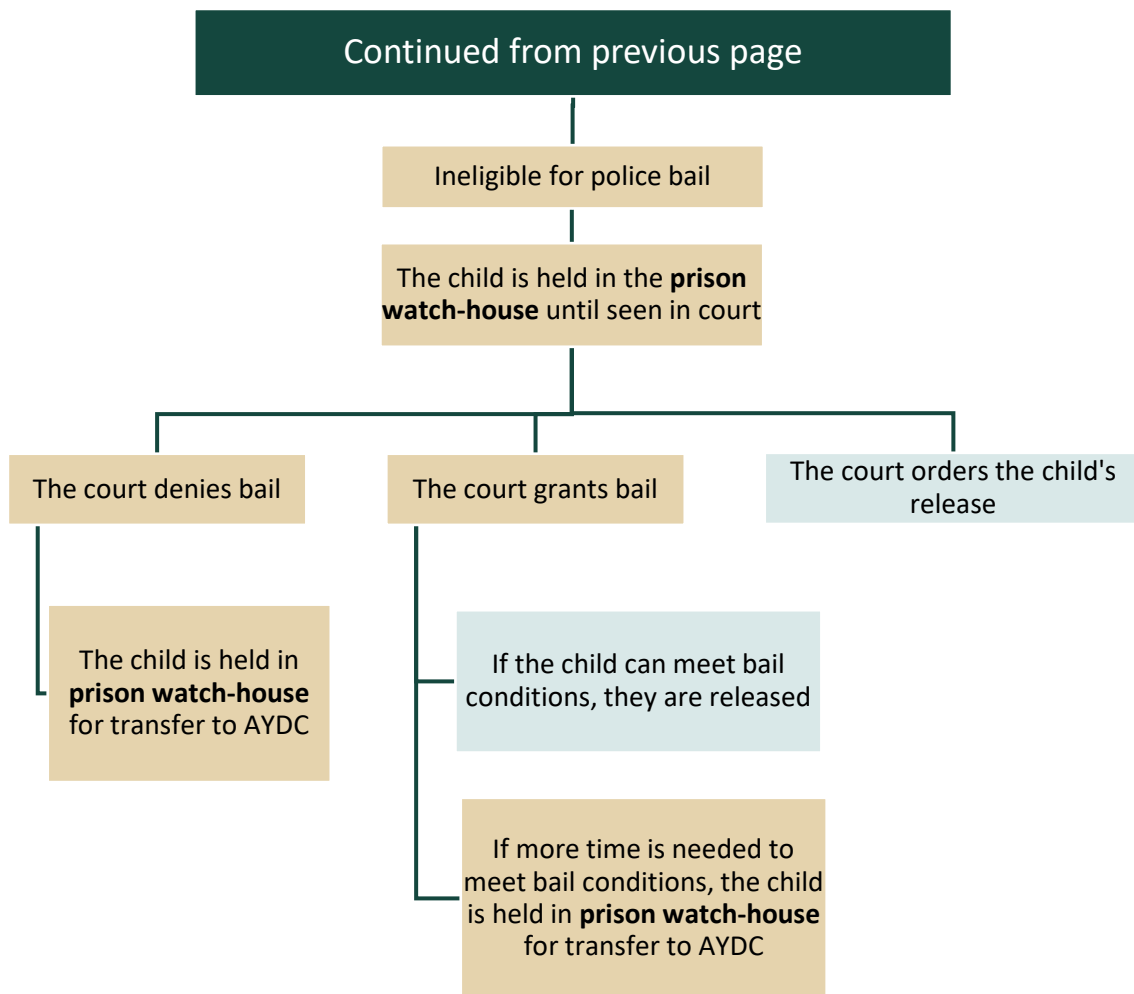
| Outcome of arrest                                                                                                    | Action                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Eligible for police bail without conditions                                                                          | The child is released by police                                                                                                                                                                                                                                                                                                     |
| Eligible for police bail with conditions, and the child can meet the conditions                                      | The child is released by police                                                                                                                                                                                                                                                                                                     |
| Eligible for police bail but the child is not able to meet the conditions (such as having appropriate accommodation) | <p>The child is transferred to a prison watch-house:</p> <ul style="list-style-type: none"> <li>- If they manage to meet the conditions before going to court, they are released from the watch-house</li> <li>- If they cannot meet the conditions, they are held in the watch-house until their first court appearance</li> </ul> |
| Eligible for police bail but the child needs time to sober up (bail when sober or BWS)                               | The child remains in the prison watch-house until they are considered sober enough to be released                                                                                                                                                                                                                                   |
| Ineligible for police bail                                                                                           | The child is held in the prison watch-house until their first court appearance                                                                                                                                                                                                                                                      |
| The court denies bail                                                                                                | The child is taken to the prison watch-house to await transport to Ashley Youth Detention Centre (AYDC)                                                                                                                                                                                                                             |
| The court grants bail                                                                                                | <ul style="list-style-type: none"> <li>-If the child can meet bail conditions, they are released</li> <li>-If more time is needed to meet bail conditions, the child is taken to the prison watch-house to await transport to AYDC</li> </ul>                                                                                       |

This process is visualised in the below figure.

Figure 1. When are children placed in prison watch-houses?



\*If the child manages to meet the bail conditions before being seen by the court they are released from the prison watch-house.



## What are the prison watch-houses like?

Launceston is a ‘horrendously bad’ building; Hobart is dated

[2.4] In Hobart, the prison watch-house is part of the Hobart Reception Prison (HRP). The watch-house has ten cells. The rest of HRP has 36 cells. The watch-house cells are on a separate, lower floor from the main prison.

[2.5] HRP opened in 1999. It is therefore relatively modern. However, the watch-house is cramped and dated. Children are held in designated cells at the outer edge of the watch-house, but it is a stressful environment and too small to allow adequate separation.<sup>27</sup>

<sup>27</sup> See paras [2.12]-[2.13].

*Figure 2. Watch-house corridor at Hobart Reception Prison*



[2.6] Launceston Reception Prison (LRP) is in the Police Station building, not a separate Tasmania Prison Service (TPS) building. Unlike Hobart, the watch-house cells are not in a separate location from the rest of LRP. As far as possible, TPS keeps the people in watch-house custody in separate corridors from those who have already been remanded in custody by the courts but there is not, and cannot be, adequate separation.<sup>28</sup>

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<sup>28</sup> See paras [2.10]-[2.13].

[2.7] LRP is antiquated, and conditions are very poor. Over 25 years ago, a former General Manager of Corrective Services Tasmania described it as a 'horrendously bad building'.<sup>29</sup> That is still true, and we have raised this issue in a number of previous reports.<sup>30</sup> Some renovations and upgrades have been done, but they cannot change that fundamental reality. It is an inhumane and degrading place for adults, let alone children.

*Figure 3. The main watch-house corridor at Launceston Reception Prison.*



<sup>29</sup> Legislative Council Select Committee (1999) *Correctional Services and Sentencing in Tasmania*, Parliament of Tasmania, p 28.

<sup>30</sup> See: Office of the Custodial Inspector Tasmania (2018) *Care and Wellbeing Inspection Report 2017*, Tasmania, pp 45, 57-58, 63-64, 80, 98.

Office of the Custodial Inspector Tasmania (2019) *Custody Inspection Report 2018*, Tasmania, pp 40-45.

Office of the Custodial Inspector Tasmania (2019) *Annual Report 2018-19*, Tasmania, p 15.

Office of the Custodial Inspector Tasmania (2020) *Annual Report 2019-20*, Tasmania, p 16.

Office of the Custodial Inspector Tasmania (2021) *Annual Report 2020-21*, Tasmania, p 26.

Office of the Custodial Inspector Tasmania (2022) *Annual Report 2021-22*, Tasmania, p 21.

Office of the Custodial Inspector Tasmania (2024) *Adult Health Care Inspection Report 2023*, Tasmania, pp 102-104.

Office of the Custodial Inspector Tasmania (2024) *Adult Wellbeing Inspection Report 2024*, Tasmania, pp 54-56

*Figure 4. Secondary watch-house corridor in Launceston Reception Prison, primarily used to accommodate women and children.*



The watch-houses look, feel, smell, sound and function like prisons

*Watch-houses are adult-focused*

[2.8] The Hobart and Launceston Reception Prison watch-houses are run as adjuncts to the adult reception prisons. The vast majority of people held there are adults, and the watch-houses are run by prison staff with a background in managing adults, not children. Former Commissioner for Children and Young People, Leanne McLean, noted that '[r]eception prisons are neither child-centred nor therapeutic environments in which to hold a child as young as 10 for even a short period of time.'<sup>31</sup>

[2.9] It is hardly surprising that the environment, regime and culture of the watch-houses are akin to an adult maximum security prison, not a facility for children.

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<sup>31</sup> Legislative Council of Tasmania: Sessional Committee Government Administration B (2025) [Adult imprisonment and youth detention: Targeted inquiry](#) (Final Report), p 283.

### *Children cannot be adequately separated*

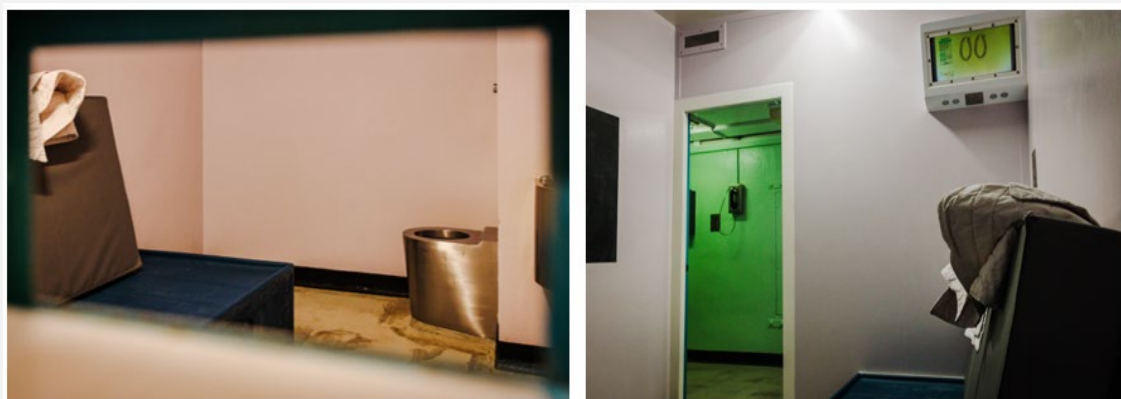
[2.10] Both prison watch-houses are small. Children cannot be adequately separated from adults. Separation is particularly difficult when the watch-houses are nearing or at capacity.

[2.11] LRP is a particularly unpleasant, unsettled and unsettling place. Dickensian in design and feel, it is a confronting and stressful environment. It is inappropriate for adults, let alone children. Many of the adults in custody are volatile after coming in ‘off the streets’, some are highly distressed or clearly experiencing mental health issues, and some are trying to ‘make their presence known’. Loud, combative and aggressive shouting reverberates through the complex. The small area set aside for women and children is directly adjacent to the rest of the prison. It is sterile, antiquated and far from soundproof. If the designated cell for children is occupied, a child will be placed in one of the watch-house cells usually allocated to men in the main watch-house corridor.

[2.12] The HRP watch-house is immediately less confronting than LRP but, as in Launceston, many of the adults in custody are volatile and/or highly distressed, and noise tends to reverberate through the facility. It is sparse, counter-therapeutic, and a stressful place for both staff and people in custody.

[2.13] In both HRP and LRP, the cells used for children are in somewhat better condition than most of the adult cells and are painted in a less stark and sterile way. But this does not change their fundamental nature. They are harsh maximum security cells, designed for adults, within earshot of adult cells and adults in custody.

*Figure 5. A watch-house cell used to accommodate children in Launceston Reception Prison.*



*Figure 6. A watch-house cell used to accommodate children in Hobart Reception Prison.*



*There is little to do and no access to fresh air and exercise*

[2.14] In structure, design, culture and management, the prison watch-houses are probably best described as ‘transit-prisons’ for adults. Because they are essentially a transit point, they lack the amenities and opportunities that exist in long-stay prisons, including access to fresh air and exercise. In mainstream prisons, these are a vital ‘safety valve’, allowing people to settle, de-stress, exercise and let off steam.

[2.15] No such opportunities exist in prison watch-houses. The Department of Police, Fire and Emergency Management noted in its feedback on a draft of this report that at times a watch-house provides children the opportunity to regulate their emotions and consider their behaviour.<sup>32</sup> But children in watch-houses often have nothing to do except rest or become frustrated, distressed, or bored.

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<sup>32</sup> Department of Police, Fire and Emergency Management response to draft of this report (refer to Appendix 1).

Notably, they are effectively kept in isolation, unless there is another child in their cell: as one young person put it, ‘there’s no one to talk to’. Lack of social contact adds to the stress of the environment and exacerbates risks of suicide and self-harm, which are already elevated upon entry into custody. This was illustrated in a troubling case our inspection officers observed during an unannounced visit to the HRP prison watch-house in 2025.

Custodial Inspector staff were visiting Hobart Reception Prison (HRP) around 4pm when a 16-year-old child returned from court. We observed the interaction between the child and the correctional officers escorting them. The child started crying in the reception area of the prison watch-house and sat in a chair beside the body scanner.

*Figure 7. A waiting space in the reception area of the Hobart Reception Prison watch-house*



The correctional officers engaged with the child, who was visibly distraught and kept repeating that they wanted to talk to someone. Correctional officers nearby highlighted to us that this was exactly why children should not be in prison watch-houses – staff are not trained to provide the support children need.

Hearing that the child was being placed in cell 109, we requested the Superintendent first clean the toilet. We had been in the cell earlier and it smelt strongly of faeces. An adult in custody, employed as a wards person, was then called to clean the toilet whilst the child and correctional officers waited outside the cell. The correctional officers then spoke with the child in the cell for several minutes.

We then asked the child if they would like to have a chat. They kept repeating that they just wanted to talk to someone, and it became quickly apparent that they were considering self-harm. They had never been to Ashley Youth Detention Centre (AYDC), and they were scared it was going to be like HRP.

They asked for details about AYDC, and we described the physical environment, the food, the school and the activities. We said it was still a detention centre but that it was a better place than HRP. We said that they can go outside and that there would be lots of people they can talk with, including the Child Advocate, who works for the Commissioner for Children and Young People.

They asked about the phone at AYDC and talked about wanting to speak with their parent. We explained how the special phones at AYDC worked. They said they had asked to speak with their parent now and that the correctional officers said they would look into it.

By the end of the conversation they were no longer crying and we asked for, and received, a commitment that we would have a chat when we visited AYDC the following week.

We advised correctional officers that the child had spoken about self-harming, and they confirmed that they were aware and would be closely monitoring them in their cell. We also confirmed that they were going to facilitate a phone call with the child's parent.

The interactions we observed between correctional officers and the child were positive, but they had a range of tasks to complete before finishing for the day and could not provide the level of support needed. It was only luck that we were there to tell the child about AYDC – otherwise they would have been alone until they were picked up hours later by security guards for the almost three-hour drive to AYDC.

*Staff want more training and believe children should not be in watch-houses*

[2.16] The TPS staff who work at the watch-houses appear genuinely concerned for the welfare of children and well-attuned to their duty of care. However, they do not believe that children should be there. As one of them said: ‘we have children, we’re parents, and we wouldn’t like our kids to be in here’.

[2.17] TPS staff are trained to manage adults in custody, not children. When we inspected the HRP watch-house in May 2024, the Centre for Excellence in Therapeutic Care had recently delivered a training package called ‘Engaging Justice-Involved Young People’. It explored issues such as brain development, children’s ways of thinking and acting, and the impacts of trauma, disability and substance abuse.

[2.18] The staff with whom we spoke said the training had been helpful and worthwhile. However, they still felt frustrated and ill at ease managing the children. Areas of concern included the poor physical infrastructure, the risks of self-harm, and concern that they might face allegations of abuse. United Workers Union representatives told the recent inquiry into Adult Imprisonment and Youth Detention that staff do not feel adequately trained to manage and engage with young people:

They do not feel equipped to effectively support and deal with these offenders. They’re trained to be adult correctional officers...They do not have the training that youth workers have. There’s a set of procedures and rules around what you should do, but that’s not clearly communicated.<sup>33</sup>

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<sup>33</sup>Legislative Council of Tasmania: Sessional Committee Government Administration B (2025) [Adult imprisonment and youth detention: Targeted inquiry](#) (Final Report), p 300.

### *Children find the watch-houses confronting and traumatising*

[2.19] In 2024, the Commissioner for Children and Young People strongly criticised the use of watch-houses for children:

All [the children] know is that they are in a cell, inside a prison, surrounded by adults who are also in custody.

What they also innately understand is that the guards in charge are not trained in child safe or therapeutic practices.

This is how a young person recently described their experience of being held in a reception prison to me:

“You’ve got nothing but your lonely thoughts in a cell at night, so ... just guess how you feel ... if you go into a Hobart Reception Prison, where there’s four or five guards putting you into a cell with nothing but the mattress, and then five minutes later, you look out your window and you see eight prison guards on top of people, taking their clothes off and putting them in gowns and stuff like that and putting in suicide cells with nothing and hearing people yell out, asking for toilet paper. They say shut up and wait.

Then, when ... Security come pick you up, two random people you don’t know put you in handcuffs and say, ‘Oh, come get in the car. I’m going to take you to Ashley.’ It’s very scary, I think.”<sup>34</sup>

[2.20] Our inspections, observations and discussions with children and staff confirm the Commissioner’s concerns. There is no doubt that watch-houses are confronting and traumatising places for children.

## **The data and its limitations**

[2.21] We have analysed TPS data for children received into prison watch-houses from December 2022 to August 2024, a total of 21 months. The data includes the total number of receptions, number of children with repeat admissions, age, gender, Aboriginality, reasons for reception, length of stay, and information regarding searches. This information has never previously been in the public domain.

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<sup>34</sup> McLean L (8 February 2024) [Opinion Piece: Adult prison is no place for children](#) [media release], Commissioner for Children and Young People Tasmania website, accessed 05 May 2025.

[2.22] Some caution should be exercised in identifying trends and interpreting the data:

- Numbers are relatively small and can fluctuate rapidly;
- We have taken the TPS data at face value and have not audited their accuracy. There will undoubtedly be some cases where data have not been correctly entered.<sup>35</sup>

However, because we are taking a broad view over an extended period, we are confident that our analysis has accurately identified the key facts and pressure points.

## Profile of the prison watch-house children

There were 642 receptions of 222 children between December 2022 and August 2024

[2.23] Figure 8 shows that between December 2022 and August 2024 (21 months), there were 642 receptions of children into the Hobart and Launceston Reception Prison watch-houses (an average of 31 per month). Three quarters of the receptions were in Hobart, and a quarter in Launceston.

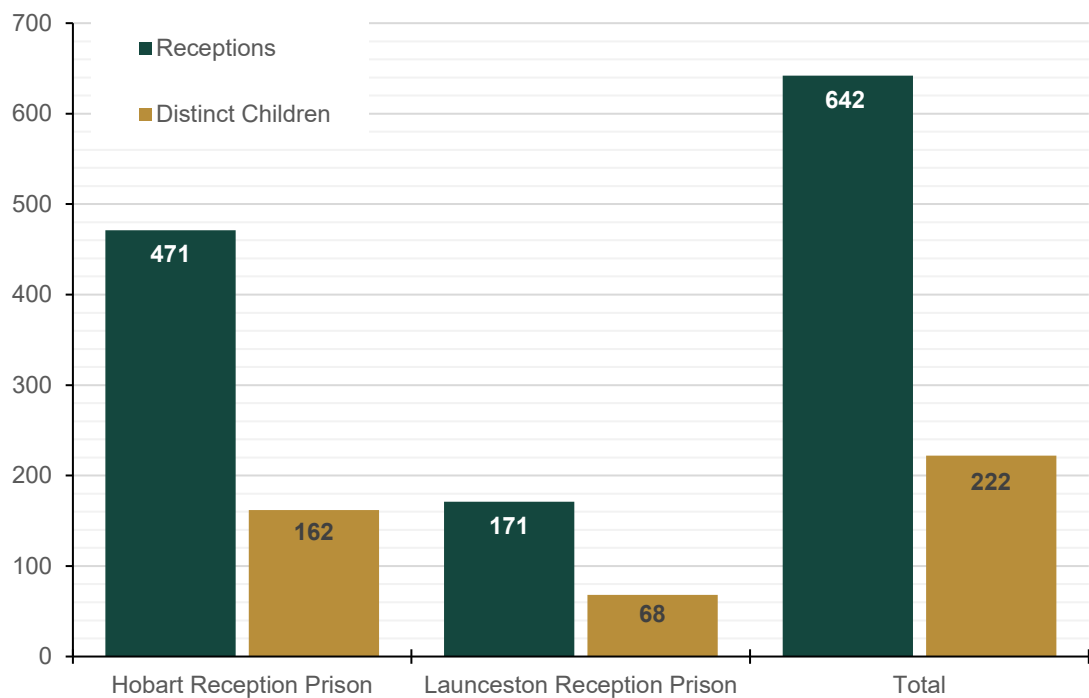
[2.24] Some children have multiple receptions. This means that the number of 'distinct children' received into prison watch-houses is significantly lower than the number of receptions. Figure 8 shows that 222 distinct children were received over the 21-month period, an average of 11 per month.

[2.25] The number of monthly receptions fluctuated widely. In Launceston, they ranged from two (July 2023) to 18 (January 2024). In Hobart, they ranged from 14 (July 2023) to 31 (March 2023 and March 2024).

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<sup>35</sup> For a concerning example of this, see our 'snapshot of Hobart Reception Prison watch-house on 28 May 2024 at paras [3.23]-[3.24]. Two young girls were in the watch-house that day. Neither of their details was in the data that TPS gave us.

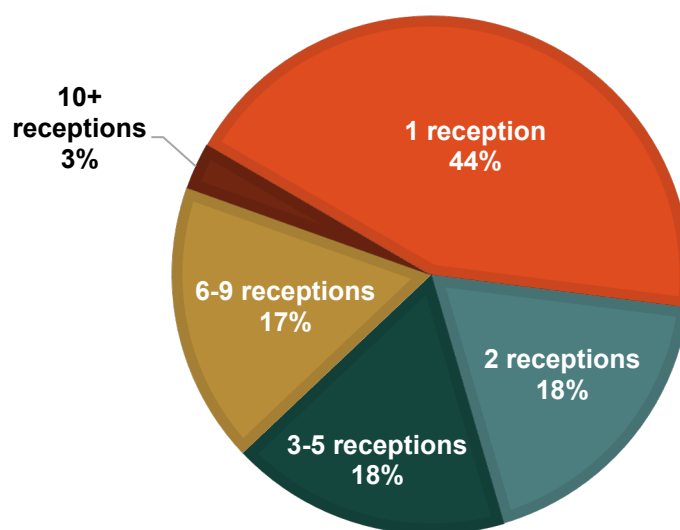
*Figure 8. Children received into prison watch-houses December 2022 to August 2024.*



Half the children had only one admission; some had multiple admissions

[2.26] Figure 9 shows that almost half the children received into prison watch-house custody came in just once. Two thirds of them came in only once or twice. However, some had multiple admissions. The maximum number of admissions was 15.

*Figure 9. Number of receptions per child December 2022 to August 2024.*

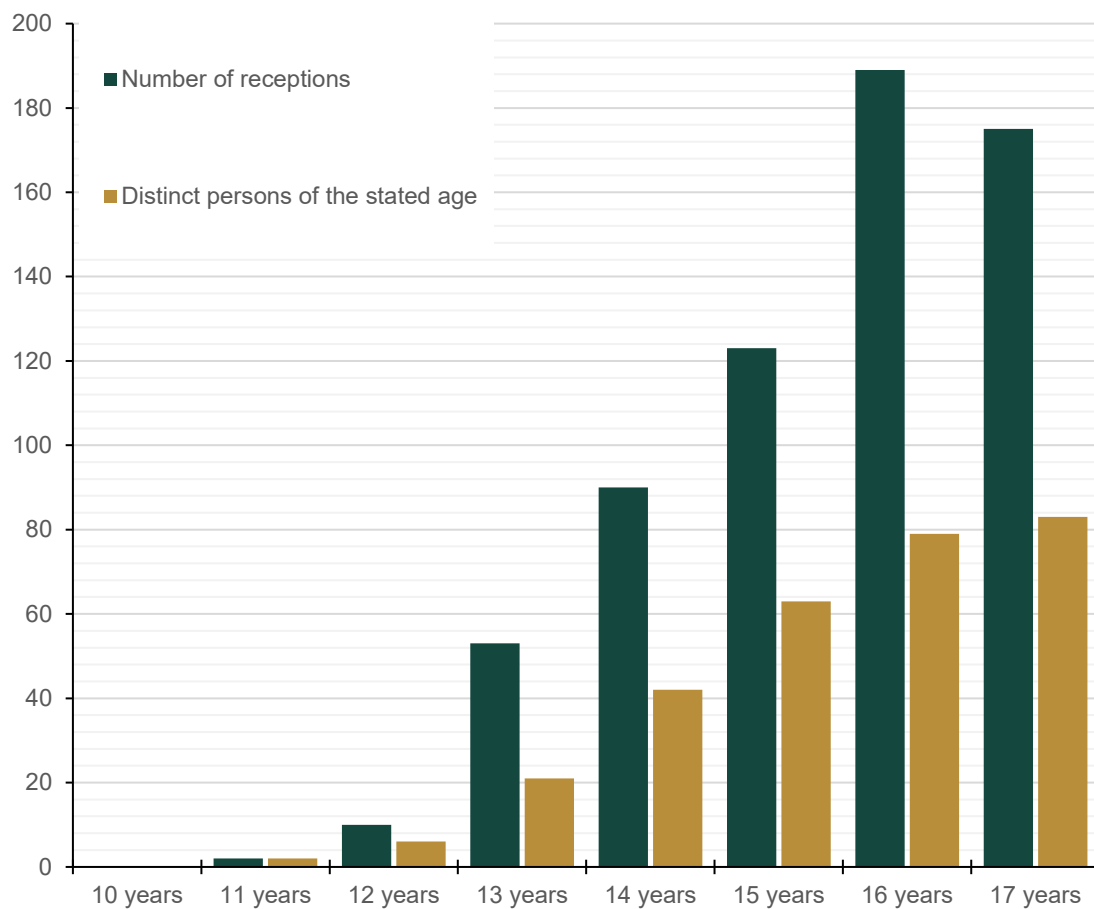


## Most children were aged 15-17

[2.27] Figure 10 summarises the age of prison watch-house children over the snapshot period. It shows that:

- 76% were aged 15 to 17
- 22% were aged 13 or 14
- 2% were aged 11 or 12
- No 10-year-olds were admitted.

Figure 10. Age of children in prison watch-houses December 2022 to August 2024.<sup>36</sup>



<sup>36</sup> Figure 10 shows that 222 distinct children were received into the watch-houses over the period in review. However, Figure 4 shows a figure of 296 distinct children. This is because some children have multiple admissions and will have been remanded at different ages over the 21-month period. For example, some of the 63 children aged 15 will also have been admitted between the ages of 11 and 14.

## Girls accounted for over a third of receptions, and a high number of repeat admissions

[2.28] Thirty five percent of all prison watch-house receptions were girls (37% in Hobart and 30% Launceston). Monthly numbers fluctuated from 12% to more than 50%.

[2.29] The proportion of girls received into watch-houses is significantly higher than the proportion of female detainees at AYDC in 2023-2024 (25%) or 2022-2023 (15%).<sup>37</sup>

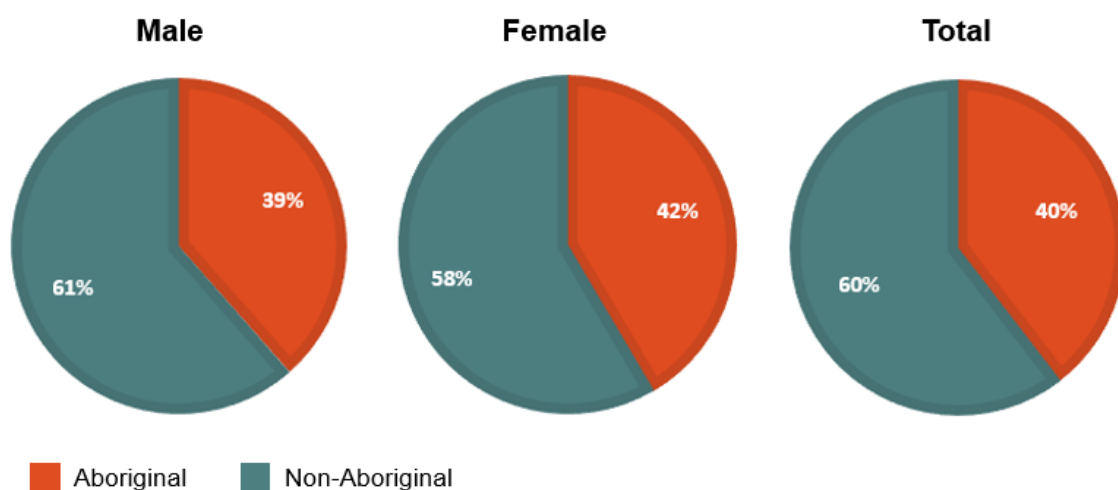
[2.30] As Figure 3 shows, six of the children had ten or more admissions. Half of them were girls.

## Aboriginal children are over-represented, especially girls

[2.31] Figure 11 shows that from December 2022 to August 2024, Aboriginal children accounted for:

- 39% of the receptions of boys (161/418)
- 42% of the receptions of girls (93/224)
- 40% of all receptions (254/642).

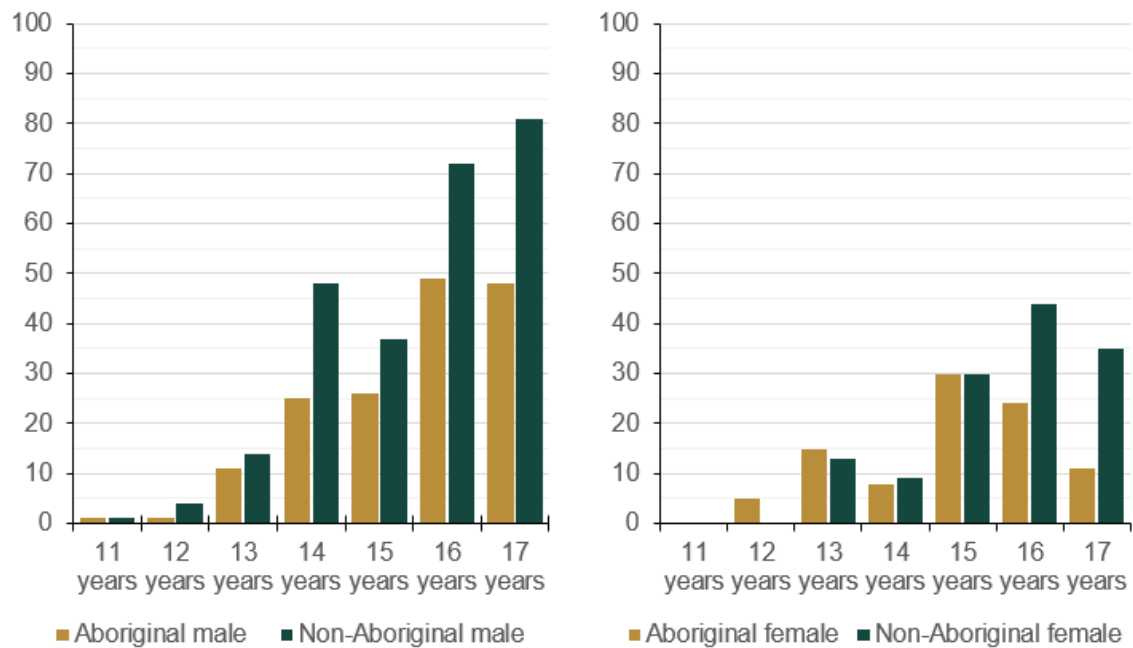
*Figure 11. Receptions of children into prison watch-houses by Aboriginal status and gender December 2022 to August 2024.*



<sup>37</sup> Productivity Commission (2025) [Report on Government Services 2025: 17 Youth Justice Services](#), Table 17A.3 [data set], Productivity Commission website, accessed 05 May 2025.

[2.32] Figure 12 outlines the age of children in watch-houses including Aboriginal children. Specifically, it highlights that younger girls received in watch-houses were even more likely to be Aboriginal. 56% of receptions of girls under 15 were Aboriginal (28/50), and 60% of receptions of 11- to 13-year-olds (20/33). This compares with 35% of the 16-year-olds (24/68) and 24% of the 17-year-olds (11/46).

*Figure 12. Receptions of children into prison watch-houses by Aboriginality, age and gender December 2022 to August 2024.*<sup>38</sup>



## How long do children stay in prison watch-houses?

### Time is relative

[2.33] Time is to some extent relative and contextual. It passes quickly if you are enjoying yourself in a pleasant environment. It passes slowly if you are stressed, uncertain what will happen, and in an unfamiliar or confrontational environment. In addition to these factors, children in prison watch-houses generally have backgrounds of trauma and correspondingly may have limited ability to regulate their emotions and cope with stressful situations.

<sup>38</sup> We are not able to give an accurate figure on the number of distinct children received into the watch-houses by age and Aboriginality because some children have multiple admissions at different ages: see also footnote 18.

[2.34] It is also accepted that children have a different sense of time from adults. Some jurisdictions expressly recognise this. For example, section 7 of the Western Australian *Young Offenders Act 1994* states that:

A young person who is dealt with for an offence should be dealt with in a *time frame that is appropriate to the young person's sense of time* [emphasis added].

Although this principle is not enshrined in Tasmania's *Youth Justice Act 1997*, it is equally relevant here.

[2.35] It follows that, in considering the amount of time that children spend in watch-houses, we must take account of the context, the watch-house environment, the children's backgrounds, and their sense of time.

### Most children spend significant time in the watch-houses

[2.36] Tables 2 and 3 summarise the time that children stayed in the prison watch-houses.<sup>39</sup> The raw data provided by TPS gave exact times for most of the children. However, for the purposes of analysis, Tables 2 and 3 aggregate the data into time periods (for example, under one hour, one to four hours etc). We have also divided the data into four different cohorts of children:

- Children who were released from the HRP watch-house
- Children who were released from the LRP watch-house
- Children who were transferred from HRP to AYDC
- Children who were transferred from LRP to AYDC.

### Children released from the watch-houses spent an average of 10.5 hours in Hobart and 9.5 hours in Launceston

[2.37] Tables 2 and 3 show that 30% of the children released from a prison watch-house spent less than four hours in the watch-house. However, most children were there for much longer:

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<sup>39</sup> We have excluded some cases because of data entry errors. Some of the numbers in Tables 2 and 3 do not therefore match the figures for the total number of receptions in Figures 8 and 10.

- In HRP the average stay was 10.5 hours
- In LRP the average stay was 9.5 hours
- 51% of the Hobart group were there for over 8 hours. 28% were there for over 16 hours
- 46% of the Launceston group were there for over 8 hours. 25% were there for over 16 hours.

### Children moved to AYDC spent an average of 21.5 hours in Hobart and 16 hours in Launceston

[2.38] The children who were transferred to AYDC spent significantly longer in prison watch-houses because of the need to arrange transport. The children held at LRP (45 minutes' drive to AYDC) spent significantly less time in the prison watch-house than their counterparts at HRP (more than two and a half hours' drive to AYDC).

[2.39] Tables 2 and 3 show that for children taken to AYDC:

- The average stay at HRP was 21.5 hours
- The average stay at LRP was 16 hours.
- For the Hobart group:
  - 39% spent 24 hours or more in the watch-house
  - 67% were there for at least 16 hours
  - 92% were there for at least 8 hours.
- For the Launceston group:
  - 12% spent 24 hours or more in the watch-house
  - 45% were there for at least 16 hours
  - 63% were there for at least 8 hours.

*Table 2. Length of watch-house stays December 2022 to August 2024: numbers*

| Time             | Released from watch-house |                    | Transferred to AYDC |                    |
|------------------|---------------------------|--------------------|---------------------|--------------------|
|                  | Hobart                    | Launceston         | Hobart              | Launceston         |
| Average time     | 10 hours 28 minutes       | 9 hours 34 minutes | 21 hours 27 minutes | 16 hours 4 minutes |
| <1 hour          | 9                         | 7                  |                     |                    |
| 1 to < 4 hours   | 87                        | 28                 | 2                   | 2                  |
| 4 to < 8 hours   | 66                        | 26                 | 8                   | 9                  |
| 8 to <12 hours   | 42                        | 12                 | 20                  | 10                 |
| 12 to < 16 hours | 34                        | 11                 | 14                  | 10                 |
| 16 to < 24 hours | 74                        | 25                 | 37                  | 19                 |
| 24 hours or more | 19                        | 3                  | 52                  | 7                  |
| Total            | 331                       | 112                | 133                 | 57                 |

*Table 3. Length of watch-house stays December 2022 to August 2024: percentages*

| Time                | Released from watch-house |            | Transferred to AYDC |            |
|---------------------|---------------------------|------------|---------------------|------------|
|                     | Hobart                    | Launceston | Hobart              | Launceston |
| < 1 hour            | 3%                        | 6%         | 0%                  | 0%         |
| 1 to < 4 hours      | 26%                       | 25%        | 2%                  | 4%         |
| 4 to < 8 hours      | 20%                       | 23%        | 6%                  | 16%        |
| 8 to <12 hours      | 13%                       | 11%        | 15%                 | 18%        |
| 12 to < 16 hours    | 10%                       | 10%        | 11%                 | 18%        |
| 16 to < 24 hours    | 22%                       | 22%        | 28%                 | 33%        |
| 24 hours or more    | 6%                        | 3%         | 39%                 | 12%        |
| Total <sup>40</sup> | 100                       | 100        | 101                 | 101        |

<sup>40</sup> Please note: the sum of the percentages in these columns may total more than 100 due to rounding errors created as the result rounding values up or down to the nearest whole number.

Some children spent over 30 hours in prison watch-houses, especially in Hobart. The longest times were over 43 hours

[2.40] Of the 471 receptions into the HRP watch-house, 14 children (3%) spent more than 30 hours there. Two were there for the best part of two days (43.5 hours). Nine of the 14 cases involved children who had been remanded in custody by the court. Four were cases where the court had granted bail and in one case, the police had issued bail.

[2.41] Of the 171 receptions into the LRP watch-house, three children (1.8%) spent more than 30 hours there. The longest was 35.5 hours. Two cases involved children who had been remanded in custody. The other involved a child granted court bail.

Children should spend the least amount of time possible in a watch-house.

## Searches

The Youth Justice Act prescribes detailed searching requirements

[2.42] In 2022, the *Youth Justice Act 1997* (the Act) was amended to enact detailed requirements for searching children in custody. The new provisions run to almost 20 pages. They came into effect on 1 December 2022.

[2.43] The amendments aimed to ensure a trauma-informed approach, to minimise the use of strip-searches, to guarantee that searches are properly justified, to require them to be conducted by a person of the same gender as the child, to use the least intrusive level of search that is appropriate, and to ensure accurate and detailed recording.

[2.44] The 2022 amendments were arguably the first legislative embodiment of the government's commitment to implementing a trauma-informed model of care in youth justice. They are therefore an important landmark. This report does not extend to police watch-houses or AYDC. However, we have analysed the data on prison watch-house searches to see how the new philosophies are reflected in practice in that environment.

## Clothed and unclothed searches

[2.45] The Act distinguishes between ‘clothed’ and ‘unclothed’ searches. An unclothed search is one that ‘requires the youth’s torso or genitals to be exposed to view or the youth’s torso or genitals, clothed only in underwear, to be exposed to view.’<sup>41</sup> A clothed search is any search that is not an unclothed search.<sup>42</sup>

## Searches should be conducted by a person of the same gender

[2.46] In line with the objective of trauma-informed treatment, the Act embodies the principle that searches should be conducted by a person of the same gender as the child. The more intrusive the search, the stricter the rules:

- A search that ‘involves *the removal of any clothing* being worn by the youth or the *touching* of the youth ... *is to be* conducted by a ‘person of the required gender’.<sup>43</sup> The only exception to this requirement is ‘if the person in charge of the custodial facility ... believes on reasonable grounds that it is not reasonable or practicable’ to apply the general rules ‘because of the urgency with which the search is required in order to address the risk of harm or trauma to the youth or another person.’<sup>44</sup>
- Other searches are to be conducted ‘as far as is reasonable and practicable by a search officer who is a person of the required gender.’<sup>45</sup>
- ‘Person of the required gender’ means:
  - In the case of a male child, a male person
  - In the case of a female children, a female person
  - If the child is ‘transsexual, transgender or has variations of sex characteristics’, a person of the gender requested by the child.<sup>46</sup>

[2.47] The provisions on the searcher’s gender do not therefore hinge on whether the search is ‘clothed’ or ‘unclothed’. The issue is whether there is *any touching* or whether *any clothing* is removed.

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<sup>41</sup> Section 25A of the *Youth Justice Act 1997*.

<sup>42</sup> Section 25A of the *Youth Justice Act 1997*.

<sup>43</sup> Section 25D(3) of the *Youth Justice Act 1997* (emphasis added).

<sup>44</sup> Section 25D(4) of the *Youth Justice Act 1997*.

<sup>45</sup> Section 25D(3) of the *Youth Justice Act 1997* (emphasis added).

<sup>46</sup> Section 25D(3) of the *Youth Justice Act 1997*.

## Searches must be justified, authorised and conducted in the least intrusive manner

[2.48] Searches should only be conducted where there are reasonable grounds to believe that ‘the search is necessary for a relevant search purpose.’<sup>47</sup> In other words, searches must be justified in the circumstances, and not be ‘routine’ or ‘automatic’. Relevant search purposes include keeping the child or another person safe, obtaining evidence, or checking for items such as weapons or drugs.<sup>48</sup>

[2.49] The Act also requires that ‘the type of search, and the manner of search, are proportionate to the circumstances.’<sup>49</sup> The search must be conducted in a way that is ‘consistent with retaining the youth’s dignity and self-respect’, ‘minimises any trauma, distress or harm that may be caused to the youth’, and is the ‘least intrusive type of search that is necessary and reasonable’ to achieve the search purpose.<sup>50</sup>

## There are six levels of search

[2.50] Two TPS Director’s Standing Orders (DSOs) deal with searching of children: DSO 1.10 *Searching* and DSO 2.25 *Management of Young People in Custody*. They prescribe six levels of search.<sup>51</sup> The gender of the searcher for a level one search should be the same gender as the child ‘as far as reasonable and practicable’. For levels two to five, the gender of the searcher must be the same gender as the child unless an authorising officer<sup>52</sup> approves an exemption.<sup>53</sup> Figure 13 explains the various levels of search:<sup>54</sup>

<sup>47</sup> Section 25E(1) of the *Youth Justice Act 1997*.

<sup>48</sup> Section 25F of the *Youth Justice Act 1997*.

<sup>49</sup> Section 25E(1) of the *Youth Justice Act 1997*.

<sup>50</sup> Section 25E(2) of the *Youth Justice Act 1997*.

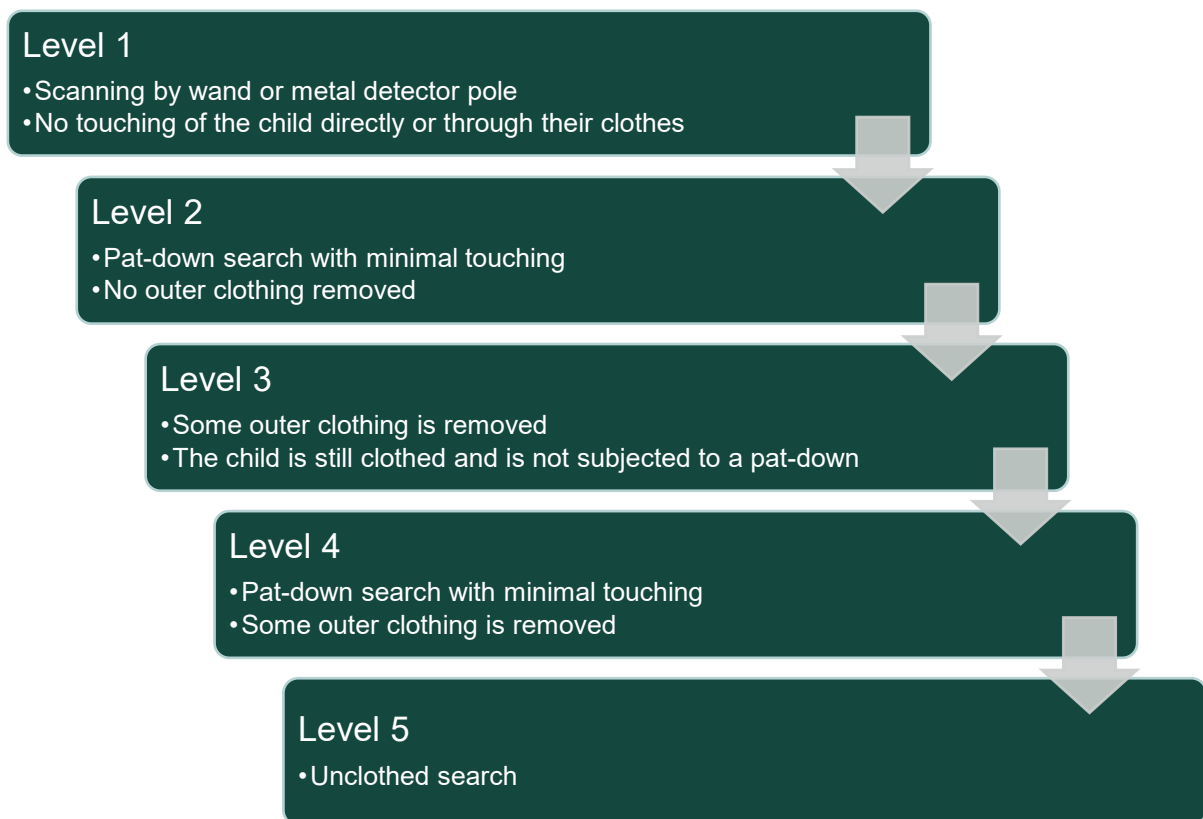
<sup>51</sup> Section 25G(1) of the *Youth Justice Act 1997*, read with TPS Director’s Standing Orders.

<sup>52</sup> DSO 2.25 *Management of Young People in Custody*, defines an authorising officer as any of the following: Deputy Secretary, Director of Prisons or Assistant Director of Prisons.

<sup>53</sup> See para [2.44].

<sup>54</sup> This figure refers to scanning by a metal detector pole, this simply involves standing near a pole that detect metal objects.

Figure 13. Searching levels and form of search.



[2.51] TPS Director’s DSO 2.25 seems to be the main guide in practice, and it includes a comprehensive checklist for staff. DSO 2.25 accurately reflects Figure 7. However, DSO 1.10 requires amendment as it suggests that Level 3 searches are treated in the same way as Level 1 searches.<sup>55</sup>

## Records are more detailed and transparent

[2.52] Our data start in December 2022, the month that the new Youth Justice Act requirements came into force. During December 2022 there were significant gaps in HRP’s records on the level of search. However, this was quickly corrected, and records improved from January 2023 onwards. From December

<sup>55</sup> The Director’s Standing Orders would be more easily understood if they referred to the different levels of search when outlining the gender requirements. Instead, they use rather generalised wording. Appendix A of DSO 2.25 accurately outlines the general principles and Appendix B (Young Person Search Risk Assessment Guide) contains a comprehensive checklist for staff. This list appears to be what governs practice in the watch-houses. However, DSO 1.10 requires revision. Clause 8 of DSO 1.10 states that ‘unclothed searches and searches that require touching’ must be conducted by a person of the same gender. Clause 7 states that all other ‘clothed’ searches only need to be conducted by a person of the required gender ‘as far as reasonably practicable’. This is not correct: if any outer clothing is removed (a Level 3 search), the searcher must be of the same gender unless there is an exemption.

2022 to the end of 2023, there were also significant gaps in the HRP and LRP records of whether appropriate authorisations were obtained. This issue was resolved from January 2024.

[2.53] There now appear to be few data gaps, and TPS generally maintains a detailed record of searching decisions and outcomes. Although we do not have data from before December 2022, it seems clear that the new laws and standing orders have led to more comprehensive record keeping, and therefore greater transparency and accountability. However, there are still gaps.<sup>56</sup>

### The majority of searches are now the least intrusive kind

[2.54] In line with the objective of conducting the least intrusive type of search and adopting a trauma-informed approach, most searches are now Level 1 (fully clothed and no touching).

[2.55] In Hobart, record keeping was poor when the new laws came into force. In December 2022, only four out of 25 receptions had the search level recorded. Three were Level 1 and one was Level 5. Record keeping improved in 2023. In the first six months of 2023, there were 144 receptions, with 14% of searches being above Level 1 (12 at Level 2, three at Level 3, one at Level 4, one at Level 5, and three at Level 6). The number of searches above Level 1 then dropped. During the first eight months of 2024, there were 181 receptions. Only 3% of searches were above Level 1 (five at Level 2 and one at Level 6).

[2.56] In Launceston, most searches were only Level 1, and none exceeded Level 3. During 2024, Launceston conducted two Level 2 searches and eight Level 3 searches.

### In Hobart, too many searches were not conducted by people of the required gender, especially searches of girls

[2.57] Searches involve two people. Searcher One conducts the actual search. Searcher Two observes and acts as a witness to the search, and can assist if required (for example, searching the pockets of clothes that have been removed). TPS data record the gender of both searchers.

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<sup>56</sup> See our 'snapshot of Hobart Reception Prison watch-house on 28 May 2024 at paras [3.23]-[3.24].

*In 12% of searches of girls and 1% of searches of boys, both searchers were the non-required gender*

[2.58] There were 471 receptions at the Hobart watch-house (173 girls and 298 boys). None of the children were recorded as gender-diverse. In 24 cases (5% of all receptions) neither searcher was of the same gender as the child.

[2.59] Girls were particularly affected. In 21 cases a girl was searched by two males. Some of the girls were as young as 13. This was more than 12% of all receptions of girls. This could be particularly confronting for girls with a history of sexual abuse or other traumatic experiences. Only 1% of the boys were searched by two people of the non-required gender. This data can be visualised in Figure 14.

*Figure 14. Searches of young people in Hobart Reception Prison watch-house where neither searcher met gender requirements, by age, gender and Aboriginal status.*

|                   | Male<br>Aboriginal | Male non-<br>Aboriginal | Female<br>Aboriginal | Female non-<br>Aboriginal |
|-------------------|--------------------|-------------------------|----------------------|---------------------------|
| 13 years          |                    |                         | 2                    | 1                         |
| 14 years          |                    |                         | 1                    |                           |
| 15 years          |                    |                         | 3                    | 1                         |
| 16 years          | 1                  |                         | 5                    | 3                         |
| 17 years          | 1                  | 1                       | 3                    | 2                         |
| Total<br>Searches | 2                  | 1                       | 14                   | 7                         |

*29% of the searches of girls and 19% of the searches of boys involved only one searcher of the required gender*

[2.60] Table 4 shows that in 23% of the Hobart receptions (107 cases), only one of the searchers was of the required gender. Again, girls were far more likely to be impacted.

*Table 4. Hobart Watch-House: only one searcher of the required gender*

|            | met gender requirements |     | Total | % of receptions |
|------------|-------------------------|-----|-------|-----------------|
|            | no                      | yes |       |                 |
| Searcher 1 | yes                     | no  |       |                 |
| Searcher 2 |                         | no  |       |                 |
| Boys       | 20                      | 36  | 56    | 19%             |
| Girls      | 16                      | 35  | 51    | 29%             |
| Total      | 36                      | 71  | 107   | 23%             |

[2.61] In summary, in Hobart:

- 28% of all searches involved at least one searcher of the non-required gender:
  - In 5% of cases, neither searcher was of the required gender
  - In another 23%, only one searcher was of the required gender.
- 42% of the searches of girls involved at least one searcher of the non-required gender:
  - In 12% of cases, neither searcher was female
  - In another 30%, only one searcher was female.
- 20% of the searches of boys involved at least one searcher of the non-required gender:
  - In 1% of cases, neither searcher was male
  - In another 19%, only one searcher was male.

## Launceston was more compliant

[2.62] There were 171 receptions into the LRP watch-house over the period in review (119 boys and 52 girls, no gender-diverse children). Table 5 shows that Launceston achieved much greater compliance with the gender searching requirements than Hobart.

- There were no cases where both searchers were of the non-required gender
- In 12% of all receptions, one searcher was of the non-required gender (20 cases)
- Girls and boys were similarly impacted.

*Table 5. Launceston Watch-House: only one searcher of the required gender*

|            | Met gender requirements |     | Total | % of receptions |
|------------|-------------------------|-----|-------|-----------------|
|            | no                      | yes |       |                 |
| Searcher 1 | yes                     | no  |       |                 |
| Searcher 2 |                         | no  |       |                 |
| Boys       | 3                       | 11  | 14    | 12%             |
| Girls      | Nil                     | 6   | 6     | 12%             |
| Total      | 3                       | 17  | 20    | 12%             |

## Chapter 3

# Children in prison watch-houses: discussion and recommendations

[3.1] This chapter:

- Analyses the implications of the evidence for the youth justice reform agenda
- Describes a visit to the Hobart watch-house in 2024
- Makes recommendations.

### What does the evidence mean for youth justice reform?

Prison watch-houses are wholly inappropriate for children and should be included in the reform agenda

[3.2] The evidence in Chapter 2, most of which is in the public domain for the first time, leads to only one possible conclusion: prison watch-houses are wholly inappropriate for children:<sup>57</sup>

- There is not and cannot be adequate separation from adult people in custody
- They look, feel, smell, sound and function like maximum security adult prisons
- They do not, and cannot operate as trauma-informed, therapeutic and child-focused places
- The physical environment is poor (particularly at LRP)
- Neither watch-house can be modified, refurbished or ‘tweaked’ to become appropriate.

[3.3] It follows that the youth justice reform agenda needs to include the watch-houses, and that the Tasmanian Government should develop a plan and a timeline to stop using them for children. We hope our analysis will help to inform that process.

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<sup>57</sup> See paras [2.4]-[2.20].

## Children are routinely held in watch-houses and their stays are not short

[3.4] In early 2024, in response to concerns raised by staff and unions, the government issued a statement about the use of watch-houses for children. In tone and wording, it suggested the government had no significant concerns:

[Children] are not routinely held in adult prisons but can be held temporarily in watch-houses.<sup>58</sup>

[3.5] The impression this creates does not accord with reality. First, it implies that watch-houses are not part of adult prisons. The reality is that they are physically part of the Reception Prisons and in culture, staffing and operations, they are akin to a short-stay adult maximum security prison.<sup>59</sup>

[3.6] Second, the statement says children are ‘not routinely’ held in watch-houses. ‘Routinely’ has two possible meanings. It may mean something is standard practice. Or it may mean it happens often. Chapter 2 shows that children are held in watch-houses in both senses of the word:

- It is standard practice / routine for children awaiting bail or court to be held in watch-houses. There is nowhere else.
- Children are often / routinely placed in watch-houses. On average there is a reception every day, and far more children go through watch-houses than through AYDC.<sup>60</sup>

[3.7] Third, ‘temporarily’ also has two possible meanings. It may mean either in the interim, or briefly. It is true that children are in watch houses ‘temporarily’ in the sense that they will move on to AYDC or be released. However, their stays cannot be characterised as brief, especially if account is taken of the impoverished watch-house environment, the stressful context, children’s sense

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<sup>58</sup> Quoted by *The Mercury* and *The Examiner* on 1 February 2024, see:

Richards B (1 February 2024) Kids in prison fears raised, Mercury News; and Seeder B (01 February 2024) Children detained in adult prisons: Union, Examiner News, [published online as: [Children detained in adult prisons amid delay to remand centre: Union claim](#), 31 January 2024].

The then Commissioner for Children and Young People strongly criticised this statement:

See: McLean L (8 February 2024) [Opinion Piece: Adult prison is no place for children](#) [media release], Commissioner for Children and Young People Tasmania website, accessed 05 May 2025.

<sup>59</sup> See paras [2.4]-[2.20].

<sup>60</sup> See paras [2.23]-[2.25] and Figure 8.

of time, and their backgrounds of trauma and disengagement.<sup>61</sup> In Hobart, almost two thirds of the children were there for over eight hours and 40% for over 16 hours. In Launceston, 57% were there for over eight hours and almost a third for over 16 hours. Some were held for well over 24 hours.<sup>62</sup>

## Watch-house staff must have appropriate training and support

[3.8] Watch-house staff are prison officers. They work in adult prisons and are trained to manage adults.<sup>63</sup> The watch-house staff we observed and spoke to genuinely cared about the children and wanted to ensure they were safe and supported, but they did not believe that children should be held in watch-houses.<sup>64</sup> Staff are also acutely aware that managing children poses very different challenges from managing adults. If watch-houses continue to hold children, staff want and require better training.<sup>65</sup>

## Children under 14 account for around ten per cent of the watch-house population. They need intensive support that is age, gender and culturally appropriate

[3.9] We were pleased to find that no ten-year-olds had been placed in watch-houses from December 2022 to August 2024, and that it was very rare for an 11-year-old to be in a watch-house. However, ten per cent of all the children were under 14.<sup>66</sup>

[3.10] The *Youth Justice Blueprint 2024-2034: keeping children and young people out of the youth justice system* (the Blueprint) states that the 'government will raise the minimum age of criminal responsibility from 10 to 14 years. Implementation will be completed by July 2029'.<sup>67</sup> As children under 14 will not be criminally responsible, they will no longer be placed in prison watch-houses.

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<sup>61</sup> See paras [2.33]-[2.35].

<sup>62</sup> These figures include the children released from watch-houses as well as those taken to AYDC: see paras [2.36]-[2.41] and Tables 2 and 3.

<sup>63</sup> See paras [2.17]-[2.18].

<sup>64</sup> See para [2.16].

<sup>65</sup> See para [2.18].

<sup>66</sup> See paras [2.27] and [2.32] and Figures 10 and 12.

<sup>67</sup> Department for Education, Children and Young People (2023) [Youth Justice Blueprint 2024-2034: keeping children and young people out of the youth justice system](#), Tasmania, p 5.

[3.11] Chapter 2 shows that the new services and service providers will need to target gender-specific needs. Girls accounted for half of all the children under 14. They also accounted for half of the children with ten or more admissions during the 21 months under review.

[3.12] Services and supports must also target cultural needs. Over 40% of boys under 14, and almost two thirds of the girls were Aboriginal. In fact, Aboriginal girls were the largest cohort in the under 14 age group.<sup>68</sup>

[3.13] As the age of criminal responsibility will not change until 2029, it is vital to provide more age, gender and culturally appropriate services in the watch-houses in the interim. We found little or no evidence of any such supports. Instead, the burden fell on adult prison officers who lack experience and expertise, and whose role is safe custody, not support and counselling.

### Does the new ‘minimum age of detention’ include watch-houses?

[3.14] In addition to raising the age of criminal responsibility, the government intends to ‘increase the minimum age of detention to 16 years by developing alternatives to detention for children aged 14 and 15 years.’<sup>69</sup> This is also to be implemented by July 2029.

[3.15] This change will mean that children aged 14 or 15 cannot be placed in a detention centre unless a court decides that exceptional circumstances exist. They will have to be managed in the community, both during remand and after sentence.

[3.16] However, none of the key reports or policy documents say anything about prison watch-houses. It is therefore not clear if the minimum age of detention will apply to prison watch-houses as well as detention centres, or whether children aged 14 or 15 will still go into watch-houses while bail arrangements are made or pending their first court appearance.

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<sup>68</sup> See paras [2.28]-[2.32].

<sup>69</sup> Department for Education, Children and Young People (2023) [Youth Justice Blueprint 2024-2034: keeping children and young people out of the youth justice system](#), Tasmania, p 5. This is also to be implemented by July 2029.

[3.17] In our view, the minimum age of detention must include prison watch-houses. The aim of providing a therapeutic, child-centred, trauma-informed youth justice system will be seriously undermined if children who are deemed too young to be placed in a modern, new child-focused detention centre continue to be held in utterly inappropriate adult prison environments.

### Searches are less intrusive, but too many are not conducted by people of the required gender

[3.18] New searching laws came into effect in December 2022. They sought to ensure a trauma-informed approach. They appear to have largely achieved their goals. Searches are less intrusive, with most now being Level 1.<sup>70</sup> TPS records are more detailed.<sup>71</sup> Finally, TPS Director's Standing Orders (DSOs) are generally compliant with the *Youth Justice Act 1997* (the Act), though DSO 1.10 requires minor amendment.<sup>72</sup>

[3.19] However, practices have not met Parliament's intent that children should be searched by a person of the same gender. The Act does not mandate same gender searches, but even Level 1 searches are to be conducted by a person of the same gender unless this would be 'unreasonable' or 'impracticable'. Higher level searches require higher level approval. These requirements are not radical or surprising. The same protocols apply to the searching of adults and children in Australian and international airports.

[3.20] Table 6 summarises the data in Chapter 2.<sup>73</sup> It shows that HRP has conducted too many searches by people of the non-required gender. Girls have been impacted far more severely than boys. LRP has been more compliant.

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<sup>70</sup> See paras [2.54]-[2.56].

<sup>71</sup> See paras [2.52]-[2.53].

<sup>72</sup> See paras [2.50]-[2.51].

<sup>73</sup> See paras [2.57]-[2.62].

*Table 6. Searches by persons of the non-required gender*

|                     | Hobart |     |       | Launceston |     |       |
|---------------------|--------|-----|-------|------------|-----|-------|
| Non-required gender | Both   | One | Total | Both       | One | Total |
| Girls               | 12%    | 29% | 41%   | Nil        | 12% | 12%   |
| Boys                | 1%     | 19% | 20%   | Nil        | 12% | 12%   |

[3.21] We cannot reconcile the HRP figures with the legislative requirement that even Level 1 searches must be conducted by a person of the same gender as far as ‘reasonable and practicable’:

- It is ‘reasonable’ to expect that all children in custody will be searched by a person of the same gender unless very good reasons exist. Parliament clearly expected same gender searches across the board.
- If it was ‘impracticable’ in Hobart to conduct same gender searches of so many children, especially girls, there is a problem with TPS rostering practices, or with how the staff on duty are being allocated to different tasks, or both.

[3.22] We also cannot understand why LRP has performed so much better than Hobart. It is true that LRP receives fewer children, but it is also a much smaller place and has fewer staff on duty. If same gender searches are practicable in Launceston, why are so many impracticable in Hobart?

### **A snapshot: Hobart Reception Prison watch-house in 2024**

[3.23] In 2024, Professor Neil Morgan, the primary author of this report, visited the HRP watch-house with a member of the Custodial Inspector’s office. The visit highlighted many of the issues detailed in this report. Professor Morgan said ‘it was one of the most confronting things I’ve encountered in a place of child custody. The sense of stress, distress and dysfunction will stay with me for a long time.’ For context, Professor Morgan was the Inspector of Custodial Services in Western Australia for a decade.

We visited the watch-house before court hearings started. Two young girls, Emily (a pseudonym) and Madison (a pseudonym) were sharing a watch-house cell and awaiting court.

Emily was 13 years old and non-Aboriginal. Madison was a little older but unfortunately we have no further information than that.

Emily appeared settled but was subdued and clearly in need of support. Madison was adversarial, volatile and loud. Her shouting echoed through the watch-house, at times competing with the noise of adults in custody.

A male correctional officer was responsible for supervising the girls. He was standing some metres away. He was being subjected to abuse and offensive language from Madison, including personal insults and threats to report him for sexual abuse or physical assault.

As a result, the officer did not have, and could not have, any meaningful engagement with Emily or Madison.

We introduced ourselves to Emily and Madison through the hatch on the door. They engaged amicably. Madison became much calmer for a period, but she was still forceful in her demands and comments. Emily engaged with us but was more reserved. Both were obviously children with complex backgrounds and high needs.

Emily and Madison clearly welcomed interaction with people who were not in positions of uniformed authority, and they were more settled when we engaged with them. However, there appeared to be no similar opportunities for engagement available in the watch-house. The burden fell on the staff member who was the target of Madison's comments and his colleagues.

Emily was remanded in custody on her first court appearance. The officer from the Custodial Inspector's office saw Emily in custody two days later during an inspection visit. She indicated that she appreciated the fact we had talked with her in the watch-house.

In short:

- The infrastructure was inappropriate
- Two young, volatile and complex girls clearly needed a different placement
- Placing them in the watch-house unfair on the girls as well as TPS staff.

[3.24] Unfortunately, the records of watch-house admissions that TPS gave us did not include either of the girls. We were subsequently able to clarify some details directly with TPS staff, but it is obviously of serious concern that supposedly complete spreadsheets had no information about the admission, processing and management of two vulnerable young girls.

## Recommendations

### The ‘state of play’

[3.25] The prison watch-houses are only minimally mentioned in the Commission of Inquiry’s report and are not referenced in any of the other key reports and strategic policy documents on youth justice reforms. We considered that they had been overlooked in the reform agenda.

[3.26] On 22 January 2025, the Custodial Inspector wrote to the Expert Advisory Panel to:

[E]nquire whether, as a group, you have considered and provided any advice regarding young people in watch-houses and alternatives that may be available now and in the future with the creation of the new youth detention centre.

[3.27] By letter dated 9 April 2025, the Deputy Secretary Child Safety and Youth Justice Operations in DECYP replied on behalf of the Expert Panel. He advised that the Panel had considered the matter at its meeting on 29 January 2025 and had subsequently visited the Hobart Reception Prison. The Deputy Secretary wrote:

*While the issue of young people’s placement in watchhouses is of great concern to the Expert Panel, the Commission of Inquiry did not make recommendations specifically in relation to watch-houses. As such, this matter falls outside of the Expert Panel’s remit [emphasis added].*

[3.28] We consider that there should be capacity to amend the scope of the reforms in response to new evidence or changing circumstances. The use of prison watch-houses casts a dark shadow over Tasmania’s approach to managing children in contact with the criminal law. This will remain into the indefinite future unless watch-houses are included in the reforms. Encouragingly, in its response to the draft of this report, DECYP advised that

the use of prison watch-houses 'is an important issue to consider as part of broader youth justice reform.'<sup>74</sup>

[3.29] However, DECYP is yet to commit to possible solutions. In other jurisdictions, children are not taken to adult prisons in these circumstances. When they leave police custody, they go to youth detention centres. We had expected that this option would have been factored into planning for the new youth detention centre (the Tasmanian Youth Justice Facility) perhaps with a standalone area providing safe, secure and trauma-informed care for children awaiting court or bail. DECYP has advised that 'the facility has not been designed as a substitute for watch-house detention', although 'its operation is expected to contribute to a reduction in the number of children entering watch-house settings'.<sup>75</sup>

[3.30] Three quarters of all receptions are in Hobart, and some reforms, including raising the age of criminal responsibility and the age of detention, and developing supported bail options, will reduce these numbers. In our view, it would be both desirable and viable to stop placing children in the Hobart Reception Prison via these reforms as well as sourcing suitable alternatives. This work also needs to occur in the north of the state.

[3.31] The Deputy Secretary's letter of 9 April 2025 made clear that the planning of the Tasmanian Youth Justice Facility does not include watch-house detention:

Supporting children and young people who are held in a watch-house and denied bail is a complex and shared responsibility. At the most recent meeting of the Expert Panel, the question of Tasmania's new youth justice facility having 'watch house' facilities was raised. *The physical environment of watch-house facilities are not under DECYP's jurisdiction to manage or reform. As such, they have not been considered for inclusion in the design of the new facility* [emphasis added].

[3.32] DECYP is therefore not looking to place the watch-house children in the Tasmanian Youth Justice Facility because the watch-houses are currently a TPS responsibility, not a DECYP responsibility, and because the new facility has not been designed for this purpose. As noted above, in its response to the

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<sup>74</sup> Department for Education, Children and Young People response to draft report (refer to Appendix 1).

<sup>75</sup> Department for Education, Children and Young People response to draft report (refer to Appendix 1).

draft of this report, DECYP advised that it is now considering 'options for reducing reliance on reception prison watch-houses'.<sup>76</sup>

[3.33] In our view, decisions about the placement of children should be driven by the best interests of the child and the aims of the youth justice reforms, not by bureaucratic demarcations or departmental preferences.

[3.34] We note that there is no legal impediment to DECYP taking over responsibility for watch-house children. It can easily be achieved.<sup>77</sup> We further note that shortly after our draft report was finalised, the Masterplan for the Tasmanian Youth Justice Facility was released; it makes no mention of children being held in watch-houses, nor of any accommodation that would be able to hold them pending release.<sup>78</sup> We consider that any setting where children are held in custody should align with the intent of Commission of Inquiry recommendations as well as the therapeutic underpinning of broader youth justice reform.

## Recommendations

[3.35] We make the following recommendations

### Recommendation 1:

The Tasmanian Government should ensure that youth justice reform encompasses all settings where children are detained, including prison watch-houses. Officials responsible for this work should be informed by visiting the Hobart and Launceston Reception Prison watch-houses when children are in custody to observe and evaluate the facilities and practices, and to talk to the children, staff, and other people in custody.

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<sup>76</sup> Department for Education, Children and Young People response to draft report (refer to Appendix 1).

<sup>77</sup> Section 25(1) of the *Youth Justice Act 1997* states that a 'youth' who is not admitted to bail 'must be detained in a watch-house while waiting' for court. Under section 3, a watch-house means: '(a) a building or part of a building at a police station used for the confinement of persons under arrest or otherwise lawfully detained in custody; and (b) a place approved by the Minister under subsection (2).' In the case of children, non-police watch-houses are therefore simply places that have been approved as such by the Minister. There is no reason why the Minister could not approve other options, including non-custodial settings, as a watch-house for children.

<sup>78</sup> Department for Education, Children and Young People, [New Tasmanian Youth Justice Facility](#), Tasmanian Government website, accessed 05 May 2025.

**Recommendation 2:**

The Tasmanian Government should collate, analyse and publish data on the use of prison watch-houses for children since August 2024.

**Recommendation 3:**

The Tasmanian Government should develop a plan, with timelines, to minimise and then stop the use of prison watch-houses for children and ensure alternatives align with broader youth justice reform.

**Recommendation 4:**

The Tasmanian Parliament should apply the minimum age of detention (16 years of age) to prison watch-houses as well as youth detention centres.

**Recommendation 5:**

The Tasmania Prison Service should use all possible options to reduce the negative impacts of the prison watch-house environment on children. This should include greater use of culturally appropriate and gender-informed support persons, and measures to reduce the length of stay.

**Recommendation 6:**

The Tasmania Prison Service should ensure that records for all children in prison watch-houses are complete, accurate and accessible to relevant oversight agencies.

**Recommendation 7:**

The Tasmania Prison Service should ensure that girls and gender-diverse children are not disadvantaged in prison watch-houses. This includes ensuring that searches are conducted by people of the same or requested gender.

**Recommendation 8:**

The Tasmania Prison Service should ensure that all staff working with children are given trauma-informed, child-specific training that includes a focus on child development, gender and culture.

## Chapter 4

### Transferring children to prison

#### Commission of Inquiry and Youth Justice reforms

[4.1] The 2023 *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* (Commission of Inquiry) condemned the current criteria and processes for transferring children from Ashley Youth Detention Centre (AYDC) to an adult prison and made significant recommendations for reform. This chapter fully supports the Commission of Inquiry's findings.

[4.2] The Commission of Inquiry based its analysis on the then Department of Communities (now Department for Education, Children and Young People or DECYP) and Tasmania Prison Service (TPS) policies and a case study involving one of the children transferred from AYDC to Risdon Prison. However, the Commission of Inquiry 'did not request or receive any evidence on the frequency of transfers' from AYDC to prisons.<sup>79</sup> We are now able to provide that information, as well as other significant details and updates.

[4.3] At the time of writing (late April 2025), there have been no changes to the documents governing transfers. By letter dated 9 April 2025, we were advised that:

[DECYP] is currently reviewing and updating policies and procedures related to the transfer of young people between youth and adult custodial facilities. This includes the development of an updated Transfer Assessment Panel and an updated Memorandum of Understanding (MoU) between DECYP, Tasmania Police, Department of Justice and the Tasmania Prison Service (TPS).<sup>80</sup>

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<sup>79</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (Report, 2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(3):154.

<sup>80</sup> Letter dated 9 April 2025 to the Custodial Inspector from the Deputy Secretary Child Safety and Youth Justice Operations in DECYP.

## What is the law?

### All Tasmania's prisons are gazetted as youth detention centres

[4.4] AYDC is generally considered to be Tasmania's only youth detention centre. However, the *Youth Justice Act* (the Act) allows other places to be gazetted as detention centres. All the State's prisons have been so gazetted.<sup>81</sup> This means that children can be moved to adult prisons under the legal fiction that they are youth detention centres, even though they are plainly nothing of the sort.

[4.5] When a child is moved to a prison:

- They are managed under the adult *Corrections Act 1997*. The child-focused requirements of the Act no longer apply.
- They are managed within the general prison infrastructure. There are no separate areas for children in any of the prisons.
- They are managed by prison staff, not by youth-focused and youth-trained staff.

### Transfers are not governed by law but by Memorandum of Understanding

[4.6] Domestic legislation and international human rights instruments require children to be treated differently from adults. Moving a child from youth detention to a prison is therefore a momentous decision. It is common for legislation to require decisions about transfer to be taken by an independent body.

[4.7] In Western Australia, children can only be transferred to prison by order of the Children's Court, and the matter must be heard by a judge, not a magistrate.<sup>82</sup> In Victoria, transfers are a matter for the Youth Parole Board.<sup>83</sup> In both states, the body that wants the transfer must show to the satisfaction of an

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<sup>81</sup> Section 123 of the *Youth Justice Act 1997*.

<sup>82</sup> Section 178 of the *Young Offenders Act 1994* (WA).

<sup>83</sup> See: Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(3):154-155.

independent third party why a transfer is necessary and appropriate, and how the child will be managed on transfer.<sup>84</sup>

[4.8] By contrast, the Act says nothing about the reasons, circumstances, processes or criteria for a child to be transferred to prison. The issue is simply governed by administrative agreement. The key document is a 2014 Memorandum of Understanding called *Transfer of Offenders to and from Ashley Youth Detention Centre and the Tasmania Prison Service* (the MOU).

[4.9] The original signatories to the MOU were the Department of Justice, Tasmania Prison Service (DOJ-TPS) and the Department of Health and Human Services, Children and Youth Services. The relevant parties are now DOJ-TPS and DECYP.

## The MOU covers transfers from AYDC to prison and from prison to AYDC

[4.10] The MOU covers three groups of young people:

- Children whom DECYP want to move from AYDC to an adult prison
- Young adults who turn 18 when they are at AYDC whom DECYP wants to move to a prison
- Young adults who are in prison, but TPS believe they should be at AYDC.

[4.11] As this report is about children, not young adults, it focuses on the first group. Four such children have been transferred in the last five years.<sup>85</sup> TPS has advised that it has not requested any transfers of young adults in custody to AYDC in recent years.

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<sup>84</sup> See para [4.23].

<sup>85</sup> See paras [4.30]-[4.39].

## The MOU lacks basic procedural safeguards

### *Initial transfers only require agreement between AYDC and TPS*

[4.12] The MOU allows a child or a young adult to be transferred to prison simply by agreement between the Manager of AYDC and the Director of Prisons.<sup>86</sup> At this stage in the process:

- Agreement between the AYDC Manager and the Director of Prisons is enough. There is no requirement for a specialist panel to meet to discuss the case.
- The MOU only states the broad grounds on which a transfer can be made. It does not prescribe any criteria for the decision.<sup>87</sup>

### *A Transfer Assessment Panel reviews the case after 14 days but only makes recommendations*

[4.13] Under the MOU, after a child ‘has been detained in [prison] *for a period exceeding 14 days*’, a Transfer Assessment Panel (TAP) ‘must convene to review the transfer arrangement in accordance with ... this MOU.’<sup>88</sup> There is:

- No requirement or process for the TAP to meet before 14 days have expired
- No time limit: all that is required is for the TAP to convene ‘as soon as possible’ after 14 days.<sup>89</sup>

[4.14] TAP membership consists of a minimum of three members from TPS and three from DECYP. TAP recommendations are ‘valid’ if four of the six members support it.<sup>90</sup>

[4.15] If the young person has had recent involvement with psychological or psychiatric services, the relevant psychologist or psychiatrist ‘may be invited to participate’ but they are not members of the TAP.<sup>91</sup>

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<sup>86</sup> Clause 8.1 of the MOU.

<sup>87</sup> The MOU prescribes criteria for the TAP but not at other stages: see paras [4.20]-[4.24].

<sup>88</sup> Clause 8.3 of the MOU (emphasis added).

<sup>89</sup> Clause 14.3 of the MOU.

<sup>90</sup> Clause 14.8 of the MOU. It is not clear what happens if there is an insoluble three-way split. As the TAP only makes recommendations, we assume the matter is resolved by the TPS and DECYP Directors: see para [4.16].

<sup>91</sup> Clause 14.2 of the MOU.

[4.16] As the Commission of Inquiry pointed out, the TAP members are all agency representatives; none are independent.<sup>92</sup> And the TAP is not a decision maker. It simply makes recommendations. These only take effect if approved by the Director of Prisons and the Director Operations Children and Youth Services (the TPS and DECYP Directors).

### *Due process protections are lacking*

[4.17] The TPS and DECYP Directors and the TAP are not required to meet with the child or to engage with other parties (such as parents, external accountability agencies and support services) before transferring a child to prison. As there is no court or Parole Board hearing, this means there is no transparency.

[4.18] The TPS and DECYP Directors' decision is final and not subject to any internal appeal. In a minimalist and empty nod to legality and due process, the MOU proclaims that decisions 'may be subject to appeal under the *Judicial Review Act 2000*'.<sup>93</sup> This is simply not a realistic option for a child in an adult prison. Judicial review is expensive, slow, legally complex, and generally more concerned with how a decision has been made than the merits and appropriateness of that decision.<sup>94</sup>

## The grounds and criteria for transfer are not child-centred

### *Initial transfer*

[4.19] The MOU states broad grounds on which an initial transfer can be made but provides no criteria. The grounds are security-focused not child-focused. The issue is whether the child:

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<sup>92</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(3):153.

<sup>93</sup> Clause 14.9 of the MOU.

<sup>94</sup> Hobart Community Legal Service (2020), [Tasmanian Legal Handbook: Judicial Review](#), [chapter 12: 'Government, Administration and Justice'], Hobart Community Legal Service website, accessed 05 May 2025.

... requires a high level of secure care because they represent a high risk to the security and safety of.... (a) themselves, (b) other detainees; (c) staff; (d) visitors; (e) the physical asset; and (f) day to day management and operations.<sup>95</sup>

### *TAP reviews*

[4.20] The MOU provides more detail for TAP deliberations, including a list of criteria. The criteria include age, gender, cultural background, the risks the child poses to security or safety, the number of incidents and offences while in custody, 'accommodation issues' at AYDC, 'progress against the AYDC Behavioural Development Program and case management model', the impact on TPS, and psychiatric and psychological needs.

[4.21] Although the criteria are lengthy, they are still overwhelmingly operational in content, tone and focus. As the Commission of Inquiry found, there is no mention of 'the best interests of the child'. The Commission of Inquiry also rightly criticised the inclusion of 'progress against the AYDC Behavioural Development Program and case management model' as a factor:

[W]e do not consider the Behaviour Development Program to be an appropriate or effective tool for responding to children and young people's complex behaviours in detention. A child or young person's failure to 'benefit' from this program is therefore not an appropriate basis upon which to transfer them to prison.<sup>96</sup>

[4.22] In addition to the Commission of Inquiry's criticisms, we note that there is no reference in the criteria to considering the child's family and community relationships, supports and perspectives. This should be a highly relevant consideration.

[4.23] There is also no requirement for DECYP and TPS to develop a detailed management plan prior to transfer. This is a major gap. Decisions about transfer should not just focus on the challenges the child poses at AYDC. They should also consider what the prison system can offer. For example, where will the child be placed in the prison system? What services and supports will be

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<sup>95</sup> Clause 7.1 of the MOU.

<sup>96</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(3):155.

available to meet their needs – especially given that TPS does not currently have any specific initiatives or programs to target the needs of young people?<sup>97</sup> Why will placement in a prison improve their behaviour? Will it make things worse? How will prison placement enhance the safety, security and wellbeing of the child and other people? How will they be assisted to transition to the community? Are TPS staff adequately trained? These are all questions which an independent decision maker such as a judge would expect to be answered.<sup>98</sup> The TAP Minutes we have seen have no such information.

## There are no age restrictions or other limitations on transfer

[4.24] The MOU has no restrictions on who can be transferred to prison. In theory, a child as young as 10 or 11 could be moved. In practice, transfers only involve older children. However, the governing framework should include age limits. For example, under Western Australian legislation, the relevant department cannot apply to the court for transfer unless the child is at least 16 years of age.<sup>99</sup> The Commission of Inquiry has also recommended an age limit of 16 years.<sup>100</sup>

## Conclusion: the framework for transfers must be overhauled, tightened and legislatively mandated

[4.25] The next part of this chapter discusses transfers from the last five years. It shows that in practice, the situation is not as loose or troubling as the wording of the MOU might suggest. However, this does not excuse the poor framework or detract from the gravity of transfer decisions.

<sup>97</sup> A future report will examine the position of young adults in the Tasmanian prison system.

<sup>98</sup> In the Western Australian case of *Department of Corrective Services v RP* [2012] WACC 5, the Department sought to transfer a young man aged 17 years, 7 months from Detention Centre custody to a prison. He had been involved in numerous incidents, including disorder and assaults on staff. As a result, he had been held in confinement for long periods while in detention. The President of the Children's Court refused to order his transfer to an adult prison. A significant factor in the President's decision was the Department's failure to provide any plan for the placement, management and support of RP if he was moved. The President also condemned RP's treatment in youth detention as 'cruel and inhumane' and 'psychological subjugation', finding that his treatment contributed to RP's disruptive behaviour.

<sup>99</sup> Section 178 of the *Young Offenders Act 1994* (WA).

<sup>100</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(3):156.

[4.26] In our view, decisions relating to the transfer of a child to an adult prison are of such importance that they should be taken by an independent third party, preferably a court. In addition, they should be governed by legislation, not an inter-departmental MOU. In 2022, the Tasmanian *Youth Justice Act 1997* was amended to lay down a strict and detailed code for searching children.<sup>101</sup> Transferring a child to an adult prison is of equal, if not greater significance.

[4.27] We strongly endorse the Commission of Inquiry's criticisms:

We are deeply concerned that children and young people can be transferred from youth detention to adult prison in Tasmania without any oversight from a court, tribunal, parole board or other independent body.

We are also concerned that a child or young person can be transferred solely for operational reasons, or based on the young person's complex and difficult behaviours, without considering their best interests or the likely impact on them of being transferred to prison.

This approach fails to recognise the effects of trauma on children and young people's ability to regulate their emotions and behaviour. It risks children and young people who have been abused or have experienced neglect or other adverse childhood experiences feeling as though others consider they are beyond help. It may have the effect of punishing them for the failure of the youth justice system to support them to address their challenges.<sup>102</sup>

## What is happening in practice?

[4.28] The Commission of Inquiry discussed transfers from AYDC to adult prisons in some detail and provided a lengthy case study on a child called Max (a pseudonym). However, it 'did not request or receive any evidence on the frequency of transfers from Ashley Youth Detention Centre to adult prison facilities' or the details of those cases.<sup>103</sup>

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<sup>101</sup> See paras [2.42]-[2.62].

<sup>102</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(3):154-155.

<sup>103</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(3):154.

[4.29] We can now fill that gap. We requested TPS to provide information on the number of children held in prisons from mid-2020 onwards. This included basic demographic information (age, gender and Aboriginality), and reasons for transfer. The Custodial Inspector is also familiar with most of the cases.

Four children have been transferred in the last five years. All were males within six months of their eighteenth birthdays

[4.30] Four boys, Max (a pseudonym)<sup>104</sup> Lee (a pseudonym) Neil (a pseudonym) and Oliver (a pseudonym) have been transferred from AYDC to a prison since mid-2020. The records show that Max was moved twice. No girls have been moved. At the time of writing (April 2025), there had been no transfers since mid-2023.

[4.31] All the boys were within six months of turning 18 when transferred into prison.

[4.32] We were pleased to find that transfers have been used only rarely, and only for children approaching their eighteenth birthdays. This alleviates some of the concerns arising from the wording of the MOU. But it does not in any way alter the fact that the legal framework is fundamentally flawed and must be reformed.

They were moved because AYDC could not manage them

[4.33] TPS provided us with a document summarising the transfers since 2020 and the reasons for transfer:

- Lee was transferred to TPS custody. The reasons were: 'violence, disruptive behaviour or behaviour issues unable to be treated on site', 'serious detention centre offences' and 'protection of other detainees, staff and visitors'.
- Max was transferred twice in a short period of time. There were approximately two months between his transfers. Both transfers were because of 'behaviour management' and 'risk to staff and other residents'.

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<sup>104</sup> We are keeping the Commission of Inquiry's pseudonym for this child.

- Neil was moved to TPS custody ‘for trial’. He was held in Hobart Reception Prison. The records say he was released from TPS custody the day after his transfer.
- Oliver was transferred to TPS custody. The reasons were: ‘immediate safety and security concerns. Unable to be managed at AYDC. Violence towards self and others. Protection of other detainees and staff.’

[4.34] The summary provided by TPS gave no context or detail to the cases. However, the Commission of Inquiry provided a comprehensive case study of Max.<sup>105</sup> Max had extensive contact with the youth justice system and presented significant challenges at AYDC. He spent considerable periods in isolation or under a restricted movement regime at AYDC and had been involved in numerous incidents. He requested transfer to an adult prison and was moved to Risdon Prison.

[4.35] However, the Commission’s report shows that TPS was also not equipped to give Max appropriate placement and support. Max told the Commissioner for Children and Young People that while in Risdon, he was ‘exposed to long periods of isolation, was self-harming (which resulted in further restrictions on his movement) and was being housed with a large number of adults’. He wanted to return to AYDC so he could attend school.<sup>106</sup> His request was refused.

[4.36] For good reason, the Commission of Inquiry report frequently refers to Max’s case. It illustrates many of the shortfalls to which we have referred:

- DECYP should be equipped to, and capable of handling complex children in a detention centre, including children like Max. They should not have to be moved to a prison.
- The prisons have no specific facilities or strategies for young adults, let alone children. They cannot meet the needs of children like Max and should not be expected to do so.
- There was no independent oversight by a court. It is quite possible that a court would not have approved a transfer, even when Max initially

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<sup>105</sup> Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(2):117-121. The Commission also discussed Max’s case in 5(1):188-191; 233-236.

<sup>106</sup> Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(1):235.

requested it. It would certainly have required a clear and detailed plan from TPS.<sup>107</sup> A court could also have exercised independent post-transfer oversight of the conditions and duration of stay. In addition, the parties would have been required to give evidence: bureaucratic agreement and letters would not suffice.

[4.37] Oliver provides another interesting case study. The reasons that were given for his transfer in the TPS summary were: ‘immediate safety and security concerns. Unable to be managed at AYDC. Violence towards self and others. Protection of other detainees and staff.’ These bare bones do not capture the complexity and nuances of the case. Oliver had serious mental health issues. He needed specialist psychiatric assessment and care. Tasmania’s only secure forensic mental health facility is the Wilfred Lopes Centre (Wilfred Lopes).<sup>108</sup> This is adjacent to Risdon Prison in Hobart, a long distance from AYDC. Wilfred Lopes would not allow Oliver to be transferred directly there from AYDC as they wanted to assess him first. He was therefore moved to Risdon Prison. During his stay at Risdon Prison he was escorted by TPS’ Direct Response Team, specially trained staff members who wear tactical gear and carry Oleoresin capsicum spray (pepper spray).

[4.38] Custodial Inspector staff, the primary author of this report and the former national Children’s Commissioner visited Oliver in Risdon Prison. He was in the inpatients section of the medical centre, as were some much older unwell men. He had his own cell, and the prison’s medical, psychiatric and psychological teams showed genuine proactive concern for his health and wellbeing. But he was isolated, barely communicating, taking little or no food, and clearly experiencing mental health issues. He was subsequently placed at Wilfred Lopes.

[4.39] Oliver’s case again shows the dilemmas and weaknesses of the current system. DECYP has not been able to manage some of the most complex children who should be in its care at AYDC. But TPS is also not remotely equipped to do so. We are also not sure why it was not possible for the necessary psychiatric assessments to be undertaken at AYDC and/or by video link so Oliver could have been moved directly to Wilfred Lopes instead of being placed in isolated limbo in Risdon Prison.

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<sup>107</sup> See para [4.23] and the Western Australian case of *RP* discussed in a footnote to that paragraph.

<sup>108</sup> Department of Health (2022) [Wilfred Lopes Centre: Fact Sheet](#), Tasmanian Government.

## Section 25 of the Youth Justice Act

The Act allows vulnerable 18-year-olds to be held in a detention centre while on remand. This is right in principle

[4.40] Section 25(2) of the *Youth Justice Act 1997* reads as follows:

If a youth who is less than 19 years old is refused bail by a justice under section 35 of the *Justices Act 1959* ...the youth must be detained –

(a) in a detention centre if, in the opinion of the Secretary, it is practicable to do so; or

(b) in a prison if, in the opinion of the Secretary, it is not practicable to detain the youth in a detention centre.

[4.41] The primary aim of Section 25(2) seems to be to protect potentially vulnerable young people who are remanded in custody after they turn 18 but are less than 19.<sup>109</sup> It does this by stating that they are to be placed in a youth detention centre instead of a prison if the Secretary of DECYP considers this to be practicable. In our view, it is right in principle that vulnerable young adults on remand should be considered for placement in a youth detention centre.

The Secretary can place a remanded child in prison if it is ‘not practicable’ to hold them in a detention centre. This is fundamentally wrong

[4.42] Section 25(2) of the *Youth Justice Act 1997* does not just deal with young adults. It covers any ‘youth’ under 19 years of age.<sup>110</sup> In theory, therefore, a child who has been denied bail can be placed in a prison if ‘in the opinion of the Secretary [of DECYP], it is not practicable’ to detain them in a detention centre.

[4.43] Section 25(2) is fundamentally flawed insofar as it extends to children:

- It is difficult to believe that Parliament would have intended to give an agency head sweeping discretion to send a child to prison simply because they think it ‘impracticable’ to hold them in a detention centre.

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<sup>109</sup> Section 25(2) does not apply to sentenced 18-year-olds.

<sup>110</sup> It is confusing for s 25(2) to refer to people who have turned 18 as ‘youth’ because under the rest of the Act, a *youth* is a child aged 10 and under 18: see paras [1.25]–[1.30].

- Section 32:
  - Says nothing about what ‘practicable’ means
  - Gives no procedural protections for the child
  - Does not even require DOJ-TPS to agree to such a placement.
- Sentenced children are only transferred to prison under the terms of the MOU after agreement between DECYP and TPS. Parliament cannot have intended that children on remand – and legally innocent – should have less protection.

[4.44] The Commission of Inquiry did not analyse Section 25(2) or make specific recommendations, but did suggest it was relevant to future reforms:

While we have not examined the use of the Secretary’s discretion under the Youth Justice Act to detain a young person in an adult prison facility at the time they are refused bail, we encourage the Government to consider our recommendation in relation to transfers broadly and implement it consistently in relation to all avenues by which children and young people may be detained in adult facilities.<sup>111</sup>

[4.45] We are not aware of any cases in recent years where Section 25(2) has resulted in a child being held in a prison based solely on the opinion of the DECYP Secretary. The MOU also seems to be based on the assumption that children remanded in custody will be taken to AYDC and that, if there is to be a transfer, it will be done under the MOU not Section 35(2).

[4.46] In summary, Section 35(2) should be amended:

- To clarify that all children who are denied bail must be placed in a detention centre, and can only be moved to an adult prison in accordance with a new, independent, legislatively based transfer process.<sup>112</sup>
- To continue to allow vulnerable young people who have turned 18 to be placed in a detention centre rather than a prison when there are good reasons for this.

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<sup>111</sup> Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 5(3):152-156.

<sup>112</sup> See Chapter 4.

## Recommendations

### The system needs total overhaul

[4.47] In the last five years, transfers from AYDC to prison have been rare:<sup>113</sup>

- Four boys have been transferred, the last in 2023
- No girls have been transferred
- All the boys were within six months of their 18<sup>th</sup> birthday
- Although the MOU allows transfers solely by agreement between the Manager of AYDC and the Director of Prisons, the transfers appear to have occurred only after TAP consideration.

[4.48] However, the framework and processes for transferring children are fundamentally flawed and need ground-up reform:

- There is no legislation governing transfers.<sup>114</sup>
- The MOU that currently governs transfers:
  - Is focused on the interests of the agencies, not the interests of the child<sup>115</sup>
  - Takes account of irrelevant considerations and ignores relevant ones<sup>116</sup>
  - Lacks independence<sup>117</sup>
  - Provides no procedural safeguards of any value<sup>118</sup>
  - Contains no restrictions on the age of children who can be transferred.<sup>119</sup>
- The agencies do not have to satisfy an independent decision maker on the reasons for transfer.<sup>120</sup>
- TPS does not have the facilities, programs and staff skills to manage children, and it is not their job.<sup>121</sup>

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<sup>113</sup> See paras [4.30]-[4.31].

<sup>114</sup> See paras [4.6]-[4.9].

<sup>115</sup> See paras [4.19]-[4.23].

<sup>116</sup> See paras [4.21]-[4.23].

<sup>117</sup> See paras [4.12]-[4.16]; [4.23].

<sup>118</sup> See paras [4.12]-[4.18].

<sup>119</sup> See para [4.24].

<sup>120</sup> See paras [4.23]; [4.26]-[4.27].

<sup>121</sup> See paras [4.33]-[4.39].

- Section 25(2) of the *Youth Justice Act 1997* is flawed insofar as it allows the Secretary of DECYP to move a child who is on remand – and therefore legally innocent – to a prison if the Secretary thinks it is impracticable to hold them in a detention centre.<sup>122</sup>

[4.49] It follows that the new Tasmanian Youth Justice Facility must be designed, constructed and managed in such a way that children are no longer transferred to a prison except by court order and in unique of circumstances.

[4.50] Our findings fully align with those of the Commission of Inquiry.

### The Commission of Inquiry set a target date of 1 July 2026 for implementing its recommendations about transfers

[4.51] The Commission of Inquiry recommended wholesale reforms to transfers:

#### **Recommendation 12.25**

The Tasmanian Government should introduce a new process for approving transfers of young people from youth detention to an adult prison facility that:

- a. limits transfers to young people aged 16 years or older
- b. requires the Department for Education, Children and Young People to notify the Commission for Children and Young People ... of any proposed transfer
- c. requires the Department to apply to the Magistrates Court (Youth Justice Division) or the new specialist children's division of the Magistrates Court ... for approval to transfer
- d. requires the Magistrates Court, in determining whether to approve the transfer, to consider, among other matters, the steps the Department has taken to avoid the need for the transfer, whether the transfer is in the young person's best interests and the views of the Commission for Children and Young People on the appropriateness of the transfer.

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<sup>122</sup> See paras [4.42]-[4.46].

[4.52] The Commission of Inquiry suggested target dates for implementing its recommendations. Recommendation 12.25 has a 'medium term' target date of 1 July 2026.<sup>123</sup>

## DECYP is reviewing its policies and procedures

[4.53] In a letter dated 9 April 2025, DECYP advised us that it is:<sup>124</sup>

...currently reviewing and updating policies and procedures related to the transfer of young people between youth and adult custodial facilities.

This includes the development of an updated Transfer Assessment Panel and an updated Memorandum of Understanding (MoU) between DECYP, Tasmania Police, Department of Justice and the Tasmania Prison Service (TPS). The updated policies and procedures will:

- Ensure the application of consistent criteria and guiding principles for assessing young people for transfers.
- Increase engagement with children and young people and ensure their rights, individual needs and wishes are at the centre of assessment and decision making, alongside the needs of families and carers.
- Improve clarity about roles and responsibilities of Ashley Youth Detention Centre and the Tasmanian Prison Service.
- Align with Commission of Inquiry Recommendation 12.25.

.... The DECYP Child Safety and Youth Justice Portfolio has established an inter-agency Steering Committee to oversee this work. The Committee includes representatives from the Department for Education Children and Young People, Department of Justice and Department of Police and Emergency Management....

The Department is also committed to ensuring this work aligns with:

- The Optional Protocol to the Convention against Torture (OPCAT) and Expectation 12.3 of the National Preventive Mechanism's Expectations on the treatment of children and young people deprived of their liberty

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<sup>123</sup> Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023) [Who was looking after me? Prioritising the safety of Tasmanian Children](#), 8(22):307-314.

<sup>124</sup> Letter dated 9 April 2025 from the Deputy Secretary Child Safety and Youth Justice Operations in DECYP to the Custodial Inspector.

- Expectations 16.2, 16.3 and 16.4 of the National Preventive Mechanism's Expectations on the treatment of people deprived of their liberty in adult custodial centres.
- The United Nations Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

To date this work has been focused on transfer of sentenced young people who are 18 years or older from AYDC to adult custodial facilities. Young people are not automatically transferred to an adult facility when they turn 18 years old. Currently, the Transfer Assessment Panel meets as required to make assessments and decisions regarding a transfer. The decision to transfer a young person/adult to an adult facility is a complex and significant one. The Transfer Assessment Panel considers an array of factors, including but not limited to, the age and background of the person, available therapeutic supports, the young person and their family's input, and safety and security considerations. The review process underway seeks to formalise and improve existing processes.

The Department acknowledges that some previous transfers would have benefited from greater transparency and communication, particularly with the young person/adult, their family, and external advocacy and oversight bodies, including your office and the Commissioner for Children and Young People. However, it has been noted more recent transfers have been vastly improved in relation to these areas. The current review process is seeking to ensure greater transparency and the updated transfers process will be supported by information for young people, which explains the process, what their rights are, and how to raise concerns or make a complaint.

[4.54] We are pleased to know that reviews are taking place and that there is inter-agency involvement. We are also pleased to see the focus on greater transparency and a more child-centred approach. However, we note that:

- To date the review has focused only 'on transfer of sentenced young people who are 18 years or older from AYDC to adult custodial facilities.' This does not address the Commission of Inquiry's primary concern, which is the transfer of children to prisons.
- More than 20 months have elapsed since the Commission of Inquiry reported in August 2023. There have been no changes to the MOU and the review process still appears to be in its infancy.

- The Commission of Inquiry recommended that the Magistrates Court should be responsible for decisions on transfer. The letter makes no mention of this. It will require legislative change, not a new MOU.
- The Commission of Inquiry suggested a date of 1 July 2026 for implementation of recommendation 12.25. That is only a little over a year away.

## Recommendations

[4.55] We make the following recommendations:

### **Recommendation 9:**

The Tasmanian Government should ensure the new Tasmanian Youth Justice Facility is designed, constructed and operated so that in future, no child will need to be transferred to a prison.

### **Recommendation 10:**

The Tasmanian Parliament amend s 25 of the *Youth Justice Act 1997* to:

- (a) remove the power of the Secretary to place children on remand in an adult prison; and
- (b) allow vulnerable young adults to be placed in the Tasmanian Youth Justice Facility where this is necessary for their safety, health and wellbeing.

### **Recommendation 11:**

The Tasmanian Government should ensure that the processes for transfer are based on legislation not a Memorandum of Understanding.

**Recommendation 12:**

The Tasmanian Government should implement Recommendation 12.25 of the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* in full by the Commission's target date of 1 July 2026.

Children in Tasmania's prisons -  
review report 2025

# **Appendix 1 – responses from relevant government departments**



**Office of the  
Custodial Inspector**  
Tasmania

## Department of Premier and Cabinet response

### Department of Premier and Cabinet

Executive Building 15 Murray Street HOBART TAS 7000 Australia  
GPO Box 123 HOBART TAS 7001 Australia  
Ph: 1300 135 513 Fax: (03) 6233 5685  
Web: [www.dpac.tas.gov.au](http://www.dpac.tas.gov.au)



Mr Richard Connock  
Custodial Inspector  
Office of the Custodial Inspector

Via email: [ci@custodialinspector.tas.gov.au](mailto:ci@custodialinspector.tas.gov.au)

Dear Mr Connock

Thank you for your correspondence of 6 May 2025 and the invitation to provide feedback on the draft report and recommendations by 30 May 2025.

The Department of Premier and Cabinet has coordinated a consolidated multi-agency response, which is attached for your consideration. In addition, feedback has been provided by three members of the Youth Justice Reform Expert Panel.

While agencies appreciated the opportunity to review the draft report, the timeframe presented some challenges in preparing fully considered responses and in clarifying the allocation of responsibilities across government. Further discussions will be ongoing to support a coordinated whole-of-government position on agency responsibilities, implementation timeframes and resourcing.

Thank you again for the opportunity to contribute ahead of finalisation and tabling of the report in the Tasmanian Parliament.

Yours sincerely

Shane Gregory  
**Acting Secretary**

1 June 2025

Attachment: Consolidated responses include:  
DPAC  
YJR Expert Panel (three individual members)  
DoJ  
DPFEM  
DoH and  
DECYP

CM reference: 25/84199/1

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**1      The Tasmanian Government and the Youth Justice Reform Taskforce should ensure that the youth justice reforms include the use of reception prison watch-houses for children.**

**Response**

Suggest confining the recommendation to the Tasmanian Government as the Youth Justice Reform Taskforce (under the Department of Premier and Cabinet) will cease operation on 30 June 2025.

A comprehensive review of the *Youth Justice Act 1997* is currently underway through the Department for Education, Children and Young People.

**Level of acceptance**                      N/A - responsibility of another agency

- 
- 2 The Tasmanian Government, Youth Justice Reform Taskforce and the Youth Justice Reform Expert Panel should:**
- (a) Visit the Hobart and Launceston watch-houses when children are in custody to observe and evaluate the facilities and practices, and to talk to the children, staff, and other people in custody.**
  - (b) Collate, analyse and publish data on the use of watch-houses for children since August 2024**

### Response

Suggest confining the recommendation to the Tasmanian Government as the Youth Justice Reform Taskforce (under the Department of Premier and Cabinet) will cease operation on 30 June 2025.

Suggest adding reception prison in front of watch-houses to clarify the jurisdiction of the Custodial Inspector in line with section 3(1) and 25A of the *Youth Justice Act 1997*.

Comment on 2(a) – query whether this is trauma-informed. Suggest the wording needs to leave it open for the careful design of the methodology to be used.

Note that members of the Youth Justice Reform Expert Panel (Expert Panel) have visited the Hobart Reception Prison.

Note that the Expert Panel is an advisory governance body, not a decision-making body.

The collation of this type of data would be through the Department of Justice and/or the Department of Police, Fire and Emergency Management. The Department for Education, Children and Young People may hold some data, given the role of youth justice in after-hours Court, which arises as a result of a young person not receiving Police bail.

It would not be the role of an ongoing Expert Panel to collate, analyse and publish this data (through the Department for Education, Children and Young People post 30 June 2025).

### Level of acceptance

N/A - responsibility of another agency

- 
- 3      The Tasmanian Government and the Youth Justice Reform Taskforce should develop a plan, with timelines, to minimise and then stop the use of watch-houses for children. The plan should include the following measures:**
- (a)   Hobart: ensuring the new Tasmanian Youth Justice Facility includes facilities for the children currently held in watch-houses.**
  - (b)   Launceston: examining alternative options. The medium to longer term options include building a new watch-house for both adults and children, with a separate, self-contained area for children to be managed by the Department for Education, Children and Young People.**

### **Response**

Suggest confining the recommendation to the Tasmanian Government as the Youth Justice Reform Taskforce will cease operation on 30 June 2025.

Suggest adding reception prison in front of watch-houses to clarify the jurisdiction of the Custodial Inspector in line with section 3(1) and 25A of the *Youth Justice Act 1997*.

Legislative amendment would be required to give effect to these recommendations and transferring these statutory responsibilities from the Department of Justice and/or the Department of Police, Fire and Emergency Management to the Department for Education, Children and Young people.

A comprehensive review of the *Youth Justice Act 1997* is currently underway. through the Department for Education, Children and Young People.

**Level of acceptance**                      Supported in part

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**4      The Tasmanian parliament should apply the minimum age of detention (16 years of age) to watch-houses as well as youth detention centres.**

**Response**

Noting that the Commission of Inquiry recommendation 12.11(c) requires the Tasmanian Government to '*work towards increasing the minimum age of detention (including remand) to 16 years by developing alternatives to detention for children aged 14 and 15 years....*' **by July 2029.**

Suggest adding reception prison in front of watch-houses to clarify the jurisdiction of the Custodial Inspector in line with section 3(1) and 25A of the *Youth Justice Act 1997*.

This recommendation will require legislative amendment to give effect to the proposed changes.

A comprehensive review of the *Youth Justice Act 1997* is currently underway. through the Department for Education, Children and Young People

**Level of acceptance**                      N/A - responsibility of another agency

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**5      The Tasmania Prison Service should use all possible options to reduce the negative impacts of the watch-house environment on children. This should include greater use of culturally appropriate and gender-informed support persons, and measures to reduce the length of stay.**

**Response**

Suggest adding reception prison in front of watch-houses to clarify the jurisdiction of the Custodial Inspector in line with section 3(1) and 25A of the *Youth Justice Act 1997*

**Level of acceptance**                      N/A - responsibility of another agency

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**6      The Tasmania Prison Service should ensure that records for all children in watch-houses are complete, accurate and accessible.**

**Response**

Suggest adding reception prison in front of watch-houses to clarify the jurisdiction of the Custodial Inspector in line with section 3(1) and 25A of the *Youth Justice Act 1997*

**Level of acceptance**                      N/A - responsibility of another agency

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**7      The Tasmania Prison Service should ensure that girls are not disadvantaged in prison watch-houses. This includes ensuring that searches are conducted by people of the same gender.**

**Response**

Suggest adding reception prison in front of watch-houses to clarify the jurisdiction of the Custodial Inspector in line with section 3(1) and 25A of the *Youth Justice Act 1997*

**Level of acceptance**                      N/A - responsibility of another agency

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**8      The Tasmania Prison Service should ensure that all staff working with children are given trauma-informed, child-specific training that includes a focus on gender and culture.**

**Response**

Suggest adding reception prison in front of watch-houses to clarify the jurisdiction of the Custodial Inspector in line with section 3(1) and 25A of the *Youth Justice Act 1997*

**Level of acceptance**                      N/A - responsibility of another agency

- 
- 9      The Tasmanian Government and the Youth Justice Reform Taskforce should ensure the new Tasmanian Youth Justice Facility is designed, constructed and operated so that in future, no child will need to be transferred to a prison.**

### **Response**

Suggest confining the recommendation to the Tasmanian Government as the Youth Justice Reform Taskforce (under the Department of Premier and Cabinet) will cease operation on 30 June 2025.

Consideration will need to be given to the statutory responsibilities for relevant agencies.

### **Level of acceptance**

Supported in part

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**10      The Tasmanian Parliament amend s 25 of the *Youth Justice Act 1997* to:**

- (a)   remove the power of the Secretary to place children on remand in an adult prison; and**
- (b)   allow vulnerable young adults to be placed in the Youth Justice Facility where this is necessary for their safety, health and wellbeing.**

**Response**

There is no statutory distinction between ‘adult’ (or otherwise) when referring to a prison (section 3 of the *Youth Justice Act 1997* - A prison means a prison within the meaning of the *Corrections Act 1997*.)

Reconsideration of the wording of the recommendation may be required due to the following:

Section 25(3) of the *Youth Justice Act 1997* deals with a youth who is less than 19 years old and ‘...must be detained...’ (not remanded).

Section 25(4) deals with a youth who is 19 or more years old and is to be ‘remanded’.

A comprehensive review of the *Youth Justice Act 1997* is currently underway by the Department for Education, Children and Young People.

**Level of acceptance**                      Supported in part

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**11      The Tasmanian Government and the Youth Justice Reform Taskforce should ensure that the processes for transfer are based on legislation not a Memorandum of Understanding.**

**Response**

Suggest confining the recommendation to the Tasmanian Government as the Youth Justice Reform Taskforce (under the Department of Premier and Cabinet) will cease operation on 30 June 2025.

A comprehensive review of the *Youth Justice Act 1997* is currently underway by the Department for Education, Children and Young People (DECYP).

Through DECYP, cross-agency collaboration is underway to establish a consistent and considered process for assessing and approving transfers of young people from detention to adult facilities.

**Level of acceptance**                      Supported in part

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**12      The Tasmanian Government and the Youth Justice Reform Taskforce should implement Recommendation 12.25 of the *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings* in full by the Commission's target date of 1 July 2026.**

**Response**

Suggest confining the recommendation to the Tasmanian Government as the Youth Justice Reform Taskforce (under the Department of Premier and Cabinet) will cease operation on 30 June 2025.

Note: COI recommendation 12.25(c) includes reference to '*...or the new specialist children's division of the Magistrates Court (Recommendation 12.15) for approval to transfer*'. Recommendation 12.15 and 12.15(c) in particular, are not required to be implemented until **July 2029**.

The Department for Education, Children and Young People is leading the implementation of this recommendation.

**Level of acceptance**                      Supported

## Department of Justice response

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- 2      The Tasmanian Government, Youth Justice Reform Taskforce and the Youth Justice Reform Expert Panel should:**
- (a) Visit the Hobart and Launceston watch-houses when children are in custody to observe and evaluate the facilities and practices, and to talk to the children, staff, and other people in custody.**
  - (b) Collate, analyse and publish data on the use of watch-houses for children since August 2024**

### Response

The Department of Justice would be supportive of sharing data relating to the use of watch-houses for children with other Agencies to support data-informed decision making in relation to youth justice reform.

#### Level of acceptance

Supported

- 
- 5      The Tasmania Prison Service should use all possible options to reduce the negative impacts of the watch-house environment on children. This should include greater use of culturally appropriate and gender-informed support persons, and measures to reduce the length of stay.**

### Response

Supported. Noting the commentary throughout this report about removing children from watch house facilities, the Tasmania Prison Service is supportive of reducing negative impacts on children housed in watch houses.

The Tasmania Prison Service is supportive of providing access to culturally appropriate and gender-informed support persons to provide support to children in watch houses. Partnership with community organisations is in the early stages of exploration in regard to the establishment of a volunteer scheme to provide suitable on-call support persons for children in watch-house custody.

#### Level of acceptance

Supported

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**6      The Tasmania Prison Service should ensure that records for all children in watch-houses are complete, accurate and accessible.**

**Response**

Supported. As noted in the report, more comprehensive record keeping has been put in place and there are now few data gaps. The TPS will continue to audit compliance with reporting requirements to ensure this remains the case.

**Level of acceptance**                      Supported

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**7      The Tasmania Prison Service should ensure that girls are not disadvantaged in prison watch-houses. This includes ensuring that searches are conducted by people of the same gender.**

**Response**

Supported. It is noted that the TPS have made substantial changes to searching protocols for children, which has resulted in significantly fewer intrusive searches of children being undertaken. The TPS will continue to ensure that, as far as reasonable and practicable, all searches are conducted by staff of the appropriate gender and will investigate instances where this does not occur to inform future approaches.

**Level of acceptance**                      Supported

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**8      The Tasmania Prison Service should ensure that all staff working with children are given trauma-informed, child-specific training that includes a focus on gender and culture.**

**Response**

Supported. The TPS have procured and delivered training to staff who work with children as part of the roll out of compliance with the new Child and Youth Safe Organisations Framework. This training was developed and delivered by the Australian Childhood Foundation to Correctional Officers and managers, and focussed on trauma-informed engagement with young people in custodial settings. Consideration will be given to further training that can be delivered with a focus on gender and culture.

**Level of acceptance**

Supported

## Department of Police, Fire and Emergency Management response

### Department of Police, Fire and Emergency Management

Office of the Secretary  
GPO Box 308 HOBART TAS 7001  
Phone 1800 765 827  
Email [secretary@dpfem.tas.gov.au](mailto:secretary@dpfem.tas.gov.au)



Our reference: A25/164634

20 May 2025

Richard Connock  
Custodial Inspector  
Office of the Custodial Inspector  
Level 6, 86 Collins Street  
HOBART TAS 7000  
[ci@custodialinspector.tas.gov.au](mailto:ci@custodialinspector.tas.gov.au)  
CC: DPAC - [annette.mclean@dpac.tas.gov.au](mailto:annette.mclean@dpac.tas.gov.au)

Dear Mr Connock

#### **DRAFT CHILDREN IN TASMANIA'S PRISONS - REVIEW REPORT 2025**

Thank you for your correspondence dated 6 May 2025 and your invitation to make representations in response to the draft report.

You would likely be aware that the Department of Premier and Cabinet is coordinating a multi-agency response to the draft report and recommendations. The Department of Police, Fire and Emergency Management (DPFEM) has contributed to that response and as such, will not be making a separate representation at this stage.

Thank you again for the opportunity to provide comment on the review report and work collaboratively on these matters.

If you have any specific queries relating to DPFEM and Tasmania Police that arise from the multi-agency feedback, please contact Rhiannon Garth, Manager Policy Development and Research Services, at: [strategy.support@dpfem.tas.gov.au](mailto:strategy.support@dpfem.tas.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read "Donna Adams", written in a cursive style.

**Donna Adams PSM APM**  
SECRETARY

A25/164633

**DPFEM feedback on the draft Children in Tasmania's Prisons – review report 2025**

(report contained in A25/153353)

**Endorsed by Commissioner of Police / Secretary DPFEM for forwarding to Youth Justice Reform Taskforce (DPAC - [annette.mclean@dpac.tas.gov.au](mailto:annette.mclean@dpac.tas.gov.au)) by 20 May 2025 for multi-agency response to Custodial Inspector Richard Connock**

**Recommendation 3** - The Tasmanian Government and the Youth Justice Reform Taskforce should develop a plan, with timelines, to minimise and then stop the use of watch-houses for children. The plan should include the following measures:

- (a) Hobart: ensuring the new Tasmanian Youth Justice Facility includes facilities for the children currently held in watch-houses.
- (b) Launceston: examining alternative options. The medium to longer term options include building a new watch-house for both adults and children, with a separate, self-contained area for children to be managed by the Department for Education, Children and Young People.

Children in custody in police watch-houses are strictly managed to a set of operational principles and procedures that include holding them only if it is a last resort (and to do so requires senior officer approval) and for the minimum amount of time necessary.

If new facilities are going to be created, there needs to be consideration around accessibility by police to the child in custody to conduct any of the procedures required of them when crime has occurred and a suspect arrested (for example, recorded interview, which is a right of any crime suspect questioned by police). This is equally applicable for court-related processes (such as attending court, again this being the right of anyone charged with a crime).

For example, if a crime involving a child suspect occurs in Hobart CBD, Hobart-based police would investigate. If the nature of the crime and/or complexity of the investigation means the child is unavoidably detained, then according to the report, they should be detained at the Youth Justice Facility proposed for Pontville, some 40 minutes or so by car from Hobart police station.

Notwithstanding the intended purpose and proposed maximum occupancy of the Pontville facility, this location is distant from investigating police and court (despite the report stating it 'will be close to the Hobart CBD and readily accessible to the courts and police station', page 55 [3.29]). The distance between police resources, court and the child would add considerably to the length of the investigation and police custody period, resulting in the perverse outcome that under the recommended model, children would actually be detained for longer than they would have been if they were held at the current Hobart watch-house.

## General comments on the draft report

### 1. ‘...prison watch-houses...are the entry point for almost every child that is taken into custody’ (page 7).

Data suggests this to be inaccurate or misleading. Most children taken into police custody are not taken to prison watch-houses as the majority of the time they are eligible for police bail once charged. For example, police charge data on Tasmanian youth custody incidents in 2024 show that the majority (around 78 per cent) of children taken into custody by police were discharged on police bail or unconditionally released.

The report may need to qualify the type of custody to which it is referring. The statement may be more accurate for children who are held in custody at Ashley Youth Detention Centre, for example.

### 2. Recommend that the report more accurately reflect eligibility for police bail

There are instances in the report (see below\*) that suggest that whether a child is released from police custody is according to police discretion, rather than whether they are *eligible* for police bail (or unconditional release). This risks giving the wrong impression that children in police custody are there at the whim of police, rather than according to legislative imperatives and related orders, policies and procedures:

Recognising that it is eligibility as the determining factor, not police discretion, appropriately makes the child and their alleged actions central to decisions involving them and are necessarily based on the circumstances and evidence available to police at the time.

If a child is eligible for police bail, they get it by default and as expeditiously as possible. If they are not (and this is largely determined by what the person is charged with e.g. serious offences, breach of family violence orders, supreme court warrant, etc), they will attend court as soon as practicable (as per Section 4 *Criminal Law (Detention and Interrogation) Act 1995*), which may be either business hours or after hours court, and the justice/court will make a decision on bail.

DPFEM offers the following amendments to improve the report’s accuracy:

\*Page 18 [1.12] – ‘If the police decide not to release a child after they have been arrested and processed...’ Alternative: ‘If a child is not eligible to be released to police bail after they have been arrested and processed...’

Pages 25 and 26 (Table 1 and figure) – Multiple times ‘Police grant bail’ and ‘police deny bail’. Alternative: ‘Eligible for police bail’ and ‘Ineligible for police bail’.

Page 39 [2.40] – ‘Four were cases where the court had granted bail and in one case, the police had granted bail.’ Alternative: ‘...the police had issued bail’.

Page 55 [3.29] – ‘Under this model, children refused bail by the police...’ Alternative ‘Under this model, children ineligible for police bail...’

**3. Launceston Reception Prison ‘...is an inhumane and degrading place for adults, let alone children’ (page 28 [2.7])**

DPFEM suggests that this is a matter of opinion and unhelpfully inflammatory and emotive. The facility is minimalistic but that is appropriate for its purpose, which is to hold people securely, separately, safely and hygienically and for youths, very much temporarily. As stated in the report itself, children in the watch-houses ‘are likely to be distressed, potentially volatile, and under the influence of drugs or alcohol’ (page 19 [1.14]). In these circumstances, consideration is utmost for the safety of the person in custody, as well as for the DPFEM and TPS staff who are responsible for keeping that person safe.

**4. ‘No such opportunities exist in prison watch-houses. The children held there have nothing to do except sleep or become frustrated, bored and demanding’ (page 30 [2.15])**

DPFEM rejects this dichotomy. A watch-house can also serve as a ‘circuit breaker’; children in watch-houses also have the opportunity to be calm and contemplative and it should be recognised that they can become so when removed from the environment and influences that have contributed to the behaviour that led to them being held there. This is not to say that another facility may not also serve this purpose, but DPFEM feels it is inaccurate to definitively ascribe only one (negative) emotional state as the outcome of being held in a watch-house.

**5. ‘...it is concerning that half of them were girls’ page 34 [2.30]**

It is equally concerning that *any* child, regardless of gender, is admitted to custody under the justice system. It is unclear why girls should deserve particular concern in the context provided and what emphasis is attempting to be made by doing so.

**6. ‘Most children spend significant time in the watch-houses’ (page 37)**

The figures provided are averages, which can be misleading, especially when dealing with data that has extreme values or is not symmetrically distributed. The report may be more meaningful if it were to utilise medians, given they provide a more robust measure of central tendency and are less affected by outliers that ‘skew’ results.

**7. Characterising searchers as the ‘wrong gender’ (‘Searches’ section pages 44-51)**

DPFEM suggests using a less personal and more objective description to describe the situation where a searcher of the required gender has not conducted the search.

## Department of Health response

### .Department of Health

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Dear Richard

#### **Subject: Draft Children in Tasmania's prisons - review report**

Thank you for the opportunity to provide a response from the Department of Health (DoH) to the draft Children in Tasmania's Prisons – Review Report 2025.

The DoH have reviewed the report and note that the majority of responsibility for this report falls under the Department of Justice (DoJ) and the Department for Education, Children and Young (DECYP) for response.

In response to your request to review paragraphs 4.37 to 4.39 within the report, the DoH will respond in sequence:

#### **Paragraph 4.37**

Forensic Mental Health Services (FMHS) currently engage a youth Forensic Psychiatrist to the Ashley Youth Detention Centre (AYDC) once a month via the TAZREACH program. The TAZREACH program aims to improve health outcomes for people living in rural, remote and regional locations and facilitates the specialist child youth psychiatrist to fly from interstate to provide services into AYDC. This has been put in place due to the difficulties in securing local Consultant Youth Forensic Psychiatrists in the Northern region of Tasmania

Section 134A of the Youth Justice Act (1997) provides a legislated mechanism for a detainee to be removed from a detention centre to a secure mental health unit if it is either in the best interests of the detainee or upon recommendation from the Chief Psychiatrist under certain circumstances.

Based on the legislation, the stated decline in the individual's mental health, the safety issues identified for the individual and others, it can be seen as appropriate that an assessment of the individual is undertaken by a specialist consultant psychiatrist. As this was not available at AYDC at the time of the case study, the individual was transferred by the Tasmanian Prison Service to the next safest place within the prison setting, the prison medical centre for the assessment to be undertaken.

The DoH is unable to comment on the Tasmanian Prison Services security procedures in place for this transfer. DoJ will be able to provide this information.

In line with the recommendations from the Child and Adolescent Mental Health Services Review 2020 authored by Professor Brett McDermott (now Statewide Specialty Director - Child and Youth Mental Health Services), a new Youth Forensic Mental Health Service model of care is being developed via the Child and Youth Mental Health Service (CYMHS) Reform Program. In line with the development of this model of care, a specialist Youth Forensic Consultant Psychiatrist (commenced in May 2024) and a senior forensic psychologist have been recruited to implement this model and service at the AYDC, and eventually the replacement youth detention facility in Pontville. Further staff are projected to be recruited to this service as the model becomes fully developed.

Additionally, the CPHS and CYMHS have been tasked with addressing Recommendation 12.21 of the Commission of Inquiry (COI) into the Tasmanian Government responses to Child Sexual Abuse in Institutional Settings. The recommendation states that:

The Tasmanian Government should ensure children and young people in detention (including on remand):

- a. receive a mental and physical health assessment on admission to the detention facility, and when needed while in detention
- b. have access to 24/7 medical care
- c. have a say in their mental and physical health care.

While each child already receives a mental and physical health assessment on admission into AYDC, improvements are being made to improve access to medical and nursing staff with recruitment underway. Additionally, the Tasmanian Centre for Mental Health Service Innovation (TCMHSI), has been tasked with undertaking a research project for current and former AYDC detainees to understand their physical and mental health needs, including a comprehensive assessment regime that include general health measures encompassing: Physical health, Mental health, Sexual health and Dental health and include, but not be restricted to:

- Neurological assessment
- Developmental assessment
- Language literacy assessment
- Service use
- Substance use
- Educational needs
- Functional assessment
- Goal-orientation
- Endocrine assessment
- Genetic assessment
- Social needs (e.g., homelessness, family support and attachment).

This comprehensive research project will better inform the model of care for physical and mental health services being provided to children in detention settings and the increased staffing model will be focussed on delivering marked improvements to the care provided to this vulnerable cohort.

**Paragraph 4.38**

It is acknowledged by the author of the report that while in the care of Correctional Primary Health Service (CPHS) within the Prison Medical centre, the staff showed genuine proactive concern for the individual's health and wellbeing. This is accepted and in line with my understanding of the dedication and professionalism of the staff within CPHS. Noting that the DoH cannot divulge details surrounding the individuals physical and mental health other than what is included in your report, the prison medical centre is well staffed by CPHS and (from September 2024) a Prison Mental Health Service (focussing on major mental illness) is available for consultation.

While I acknowledge your concerns, in organising transfer to Wilfred Lopes Centre (WLC) it is imperative that an initial assessment is undertaken of individuals being admitted to WLC and therefore in lieu of this being able to be conducted at AYDC and the subsequent transfer of the individual by the Tasmanian Prison Service, the next safest place within the prison setting is the prison medical centre for the assessment to be undertaken.

This is for clinical and practical reasons as, in addition to organising the necessary assessments are undertaken for transfer to WLC, it also requires the availability of a bed to be identified for the individual. In organising admission to Wilfred Lopes Centre (WLC), a bed must become available within the Admissions area of Wilfred Lopes Centre, which has a current practical capacity of one admission at any one time.

**Paragraph 4.39**

As explained above, appropriate specialist youth forensic psychiatrist resources were not available at the time of this individuals case at AYDC. With this in mind. and the wellbeing and safety of the individual and others, alternative arrangements for appropriate care were undertaken. Statewide Mental Health Services, through the development of new services such as the Youth Forensic Mental Health Service and the Prison Mental Health Service are undergoing significant investment in specialist staffing and service development to address gaps in care, which will provide for overall improvements in supports to children in detention and where appropriate, better facilitation of transfers through to other specialist areas of the mental health system.

In relation to your request for any other feedback in consideration to any public interest considerations under section 22 of the Custodial Inspector Act. It would be good to consider further clarification within the report in relation to 'Oliver' not being this young person's real name. I understand, the DoH has already provided this feedback to the principal investigator.

Thank you again for the opportunity to provide feedback to this report. Yours sincerely



Dale Webster  
Secretary

26 May 2025

## Department for Education, Children and Young People response

### General comments on the Custodial Inspector's draft *Children in Tasmania's prisons – review report 2025*

#### a) Reference to the 'Youth Justice Reform Taskforce'

The report makes several references to the Youth Justice Reform Taskforce, including in its recommendations for implementation. This appears to stem from para [1.4], which states: "The Department of Premier and Cabinet (DPAC) has established the Youth Justice Reform Taskforce to oversee the Blueprint's implementation."

The Department for Education, Children and Young People (DECYP) appreciates the recognition of the important role the Youth Justice Reform Taskforce has played in progressing reform. However, we note that the Taskforce was established by the Tasmanian Government within DPAC to support delivery of specific, time-limited elements of the *Youth Justice Blueprint 2024–2034* that require cross-agency coordination.

It commenced in July 2024 with a remit to elevate and accelerate key areas of reform over a 12-month period. The Taskforce is not responsible for overseeing the full implementation of the ten-year Blueprint.

From 1 July 2025, ongoing responsibility for implementing the Blueprint will rest with DECYP. In this context, DECYP suggests that references to the Youth Justice Reform Taskforce in the report's recommendations be amended to refer more broadly to the Tasmanian Government. This will better reflect both the Taskforce's role and the enduring governance arrangements for Blueprint delivery.

#### b) Report section outlining the 'state of play' – para [3.25-3.28]

This section of the report misconstrues DECYP's correspondence to the Custodial Inspector regarding the Youth Justice Reform Expert Panel. It implies a reluctance to adjust reform priorities in response to emerging evidence or to address the issue of children held in watch-houses.

DECYP acknowledges the concerns raised and appreciates the opportunity to clarify its position. The correspondence cited was intended to outline the formal remit of the Expert Panel, rather than to signal a lack of interest in the issue of children in watch-houses.

Since 2024, DECYP has been engaged in ongoing cross-agency work with the Department of Justice to progress matters relating to transfers of young people to adult custodial facilities. As part of this, the issue of children in watch-houses has been considered. In April 2025, DECYP officers visited the Hobart Reception Prison to gain a more detailed understanding of the operational environment and inform internal policy considerations.

DECYP remains committed to continuous improvement and ensuring that reforms are responsive to new evidence and grounded in the best interests of children and young people.

## Response to recommendations made in the Custodial Inspector's draft *Children in Tasmania's prisons – review report 2025*

- 
- 1      The Tasmanian Government and the Youth Justice Reform Taskforce should ensure that the youth justice reforms include the use of reception prison watch-houses for children.**

### Response

DECYP acknowledges the concerns raised about the use of reception prison watch-houses for children and agrees that this is an important issue to consider as part of broader youth justice reform.

Work is already underway across government to review the policies and practices relating to these settings. DECYP is working closely with the Department of Justice to better understand the current use of watch-houses and identify opportunities for improvement. In April 2025, DECYP officers visited the Hobart Reception Prison to inform this work.

In addition, the Tasmanian Government is currently reviewing the *Youth Justice Act 1997* to ensure it reflects modern, evidence-based approaches to supporting children and young people. This review is considering a wide range of issues, including the use of watch-houses, and aims to strengthen the legislative framework to better support safety, wellbeing and community outcomes.

Any changes to how watch-houses are used—including alternative options—will need to be carefully assessed and considered alongside available resources. DECYP is committed to ensuring youth justice reforms remain responsive to evidence, aligned with best practice, and focused on the best interests of children and young people.

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**2      The Tasmanian Government, Youth Justice Reform Taskforce and the Youth Justice Reform Expert Panel should:**

- a) Visit the Hobart and Launceston watch-houses when children are in custody to observe and evaluate the facilities and practices, and to talk to the children, staff, and other people in custody.**
- b) Collate, analyse and publish data on the use of watch-houses for children since August 2024.**

**Response**

DECYP supports continued efforts to better understand the experience of children and young people in custodial settings and welcomes the intent of this recommendation.

Some members of the Youth Justice Reform Expert Panel have already visited the Hobart Reception Prison to inform its understanding of the custodial environment and provide advice on areas of concern. Separately, DECYP officers also visited the facility in April 2025 to inform internal planning and escalation of policy issues. DECYP recognises the value of site visits in shaping evidence-informed reform and will continue to work with partner agencies to ensure children and young people's experiences are considered as part of future planning.

With regard to data, DECYP acknowledges the importance of transparency and evidence in shaping reform. While Tasmania Prison Service holds primary responsibility for data related to prison-based facilities, DECYP is committed to collaborating across government to support improved collection, analysis and use of data on the use of watch-houses for children. Consideration will be given to how this data may be used to inform reform efforts, including through the broader implementation of the Youth Justice Blueprint.

Any future public reporting will need to consider data availability, quality, and privacy protections, particularly given the small cohort of affected children.

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- 3      The Tasmanian Government and the Youth Justice Reform Taskforce should develop a plan, with timelines, to minimise and then stop the use of watch-houses for children. The plan should include the following measures:**
- a) Hobart: ensuring the new Tasmanian Youth Justice Facility includes facilities for the children currently held in watch-houses.**
  - b) Launceston: examining alternative options. The medium to longer term options include building a new watch-house for both adults and children, with a separate, self-contained area for children to be managed by the Department for Education, Children and Young People.**

### **Response**

DECYP acknowledges the intent of this recommendation and agrees that reducing the use of watch-houses for children is an important goal as part of broader youth justice system reform.

Planning for the new Tasmanian Youth Justice Facility has focused on creating a modern, fit-for-purpose environment that supports therapeutic and developmentally appropriate responses for children and young people. While the facility has not been designed as a substitute for watch-house detention, its operation is expected to contribute to a reduction in the number of children entering watch-house settings, particularly through increased remand capacity and improved custodial alternatives.

DECYP also recognises the unique challenges in Launceston, where facilities are significantly more constrained. Longer-term planning for custodial infrastructure—particularly in northern Tasmania—will need to involve close collaboration with the Department of Justice and be subject to government priorities and available funding.

Work is already underway to consider the policy and legislative frameworks that underpin custodial placements. This provides a key opportunity to examine options for reducing reliance on reception prison watch-houses, supported by cross-agency planning over time. Any shift away from the use of these environments will require careful sequencing, sustainable resourcing, and system-wide coordination.

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**4      The Tasmanian Parliament should apply the minimum age of detention (16 years of age) to watch-houses as well as youth detention centres.**

**Response**

DECYP supports the Tasmanian Government's commitment to exploring an increase to the minimum age of detention to 16 years as part of its broader youth justice reform agenda. This significant reform is being progressed in stages to ensure the necessary policy, service and legislative frameworks are in place to support safe and effective alternatives to detention for younger children.

The application of a minimum age of detention to watch-house settings is a complex policy matter that requires further consideration, including how such a change would interact with current policing and custodial practices. These matters are being explored as part of the current review of the *Youth Justice Act 1997*, which aims to ensure that Tasmania's legislative framework reflects best practice and is developmentally appropriate, evidence-informed and responsive to community needs.

DECYP will continue to work in partnership with relevant agencies to explore viable pathways for reducing reliance on custodial settings for younger children, including strategies to divert children under 16 from watch-house environments wherever possible. Implementation of any change to the minimum age of detention across all settings will require detailed planning, interagency coordination and appropriate resourcing.

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**5      The Tasmania Prison Service should use all possible options to reduce the negative impacts of the watch-house environment on children. This should include greater use of culturally appropriate and gender-informed support persons, and measures to reduce the length of stay.**

**Response**

N/A

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- 6      The Tasmania Prison Service should ensure that records for all children in watch-houses are complete, accurate and accessible.**

**Response**

N/A

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- 7      The Tasmania Prison Service should ensure that girls are not disadvantaged in prison watch-houses. This includes ensuring that searches are conducted by people of the same gender.**

**Response**

N/A

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- 8      The Tasmania Prison Service should ensure that all staff working with children are given trauma-informed, child-specific training that includes a focus on gender and culture.**

**Response**

N/A

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- 9      The Tasmanian Government and the Youth Justice Reform Taskforce should ensure the new Tasmanian Youth Justice Facility is designed, constructed and operated so that in future, no child will need to be transferred to a prison.**

**Response**

DECYP supports the intent of this recommendation and is committed to ensuring that the new Tasmanian Youth Justice Facility provides a modern, safe and developmentally appropriate environment for children and young people.

The new facility is being designed to support a therapeutic model of care and will be a key part of the broader shift toward a more child-centred, rehabilitative approach to youth justice in Tasmania. It will include infrastructure and operational capabilities aimed at safely managing children and young people with a range of complex needs, thereby reducing the likelihood of transfer to adult custodial settings.

DECYP acknowledges that the use of adult prisons for children—however rare—should only occur in the most exceptional of circumstances, if at all.

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- 10     The Tasmanian Parliament amend s 25 of the Youth Justice Act 1997 to:**

- a) remove the power of the Secretary to place children on remand in an adult prison; and**
- b) allow vulnerable young adults to be placed in youth justice facilities where this is necessary for their safety, health and wellbeing.**

**Response**

DECYP acknowledges the intent of this recommendation and agrees that the legislative framework should reflect contemporary youth justice principles and safeguards for children and young people.

A comprehensive review of the *Youth Justice Act 1997* is currently underway. This review is examining all relevant provisions, including section 25, to ensure the Act is evidence-based, operationally sound, and developmentally appropriate. The review will also consider the needs of vulnerable young adults and options for safe, appropriate custodial placement.

Any proposed changes will be subject to detailed policy and operational analysis, interagency consultation, and resourcing considerations, with a focus on promoting safety, rights, and long-term outcomes for children and young people.

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**11      The Tasmanian Government and the Youth Justice Reform Taskforce should ensure that the processes for transfer are based on legislation not a Memorandum of Understanding.**

**Response**

DECYP acknowledges the importance of ensuring that transfer decisions involving children and young people are supported by a clear, transparent, and accountable legislative framework.

A comprehensive review of the *Youth Justice Act 1997* is currently underway. This review is focused on aligning the Act with contemporary evidence-based youth justice practice, delivering on government commitments, addressing operational and legal issues, and supporting broader reforms such as increases to the minimum age of criminal responsibility and detention. The review aims to embed a fit-for-purpose model of youth justice that promotes the safety, wellbeing and rights of children and young people, while supporting improved community outcomes.

As part of this work, current provisions relating to transfers to adult custodial facilities are being considered. In the interim, and in response to Recommendation 12.25 of the Commission of Inquiry, DECYP is working closely with partner agencies to strengthen cross-agency processes for assessing and approving transfers, ensuring decisions are made with appropriate safeguards and oversight

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**12      The Tasmanian Government and the Youth Justice Reform Taskforce should implement Recommendation 12.25 of the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings in full by the Commission’s target date of 1 July 2026.**

**Response**

The Tasmanian Government has committed to implementing Recommendation 12.25 of the Commission of Inquiry in full by the target date of 1 July 2026. This recommendation calls for the development of a new, legislated process for approving transfers of young people from youth detention to adult prison, supported by judicial oversight and independent safeguards.

DECYP is leading implementation of this work, in collaboration with key partners including the Department of Justice. The new process will align with human rights standards and best practice frameworks and will ensure that the voice of the young person and their family or guardian is heard in decision-making.

Wherever possible, the Government is committed to preventing young people’s contact with the adult justice system. The new transfer process will reflect this principle and will be subject to ongoing review as related Commission of Inquiry recommendations are implemented—particularly the establishment of a new specialist children and young people’s division of the Magistrates Court to approve such transfers.

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## **Appendix 2 – list of acronyms and abbreviations**



**Office of the  
Custodial Inspector**  
Tasmania

## Acronyms

|              |                                                     |
|--------------|-----------------------------------------------------|
| <b>AIHW</b>  | Australian Institute of Health and Welfare          |
| <b>AYDC</b>  | Ashley Youth Detention Centre                       |
| <b>CBD</b>   | Central Business District                           |
| <b>CETC</b>  | Centre for Excellence in Therapeutic Care           |
| <b>DECYP</b> | Department for Education, Children and Young People |
| <b>DOJ</b>   | Department of Justice                               |
| <b>DSO</b>   | Director's Standing Order                           |
| <b>HRP</b>   | Hobart Reception Prison                             |
| <b>LRP</b>   | Launceston Reception Prison                         |
| <b>MOU</b>   | Memorandum of Understanding                         |
| <b>OPCAT</b> | Optional Protocol to the Convention Against Torture |
| <b>TAP</b>   | Transfer Assessment Panel                           |
| <b>TAS</b>   | Tasmania                                            |
| <b>TPS</b>   | Tasmania Prison Service                             |
| <b>UN</b>    | United Nations                                      |
| <b>WA</b>    | Western Australia                                   |

## Abbreviations

|                                             |                                                                                                                              |
|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| <b>Commission of Inquiry</b>                | Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings              |
| <b>The Blueprint</b>                        | Youth Justice Blueprint 2024-2034: keeping children and young people out of the youth justice system                         |
| <b>The Model of Care</b>                    | Youth Justice Model of Care                                                                                                  |
| <b>The MOU</b>                              | Transfer of Offenders to and from Ashley Youth Detention Centre and the Tasmania Prison Service                              |
| <b>the Tasmanian Youth Justice Facility</b> | The new Youth Justice Facility planned to be built in Pontville (outside of Hobart) to replace Ashley Youth Detention Centre |
| <b>the TPS and DECYP Directors</b>          | Director of Prisons and the Director Operations Children and Youth Services                                                  |
| <b>Wilfred Lopes</b>                        | Wilfred Lopes Centre                                                                                                         |



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