

31 March 2026

Lloyd Babb SC  
Independent Reviewer  
C/- Department of Justice  
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Dear Mr Babb SC

## **Re: Third Party Review of Backlogs in the Tasmanian Court System 2026**

Thank you for the opportunity to contribute to the *Third Party Review of Backlogs in the Tasmanian Court System 2026* (Review). We warmly welcome the Review which is both timely and necessary.

Given the consultation timeframe, this submission is not intended to be exhaustive and is confined to the most pressing issues I see as affecting the rights of children and young people involved in the criminal justice system in relation to their own behaviour.<sup>1</sup>

### **The Impact of Delay on Children and Young People**

Delays in the criminal justice system have profound and deleterious effects on children and young people, including:

- Extended periods in unsentenced detention, including time spent in watchhouses or on remand, often in environments that are not developmentally appropriate or safe;
- Increased risk of disengagement from education, family supports, and community;
- Heightened anxiety and uncertainty, which can affect mental health and wellbeing; and
- Reduced capacity to participate effectively in proceedings over time, including the ability to recall events or provide instructions to a legal practitioner.

For children and young people, delay is not a neutral administrative issue. It can and does cause lasting harm, impacting their healthy development, increasing the likelihood of deeper involvement in the criminal justice system, and perpetuating structural inequity.

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<sup>11</sup> Although some of my comments are also relevant to the rights and best interests of children who are victim-survivors and/or witnesses in criminal justice processes.



## Delays in Critical Reports and Disclosure

Delay in obtaining disclosure remains a central and persistent issue in the progression of criminal matters. It is disappointing that the *Magistrates Court (Criminal and General Division) Act 2019*, which directly affects the operation of the Court's Youth Justice Division, remains unproclaimed, although it was passed over six years ago and was intended to address many of the systemic causes of delay. In her second reading speech introducing the relevant Bill to Parliament, the then Attorney-General noted that the legislation "will ensure that the first appearance of a defendant can be meaningful, and in combination with early disclosure, is likely to have a number of benefits, including reduced court backlogs and fewer delays and adjournments."<sup>2</sup> The failure to have this key legislation proclaimed means the anticipated benefits of these reforms, particularly in promoting early, complete, and consistent disclosure, have not been realised.

A further significant contributor to delay is the time taken to obtain key reports, including pre-sentence reports, assessments under sections 104 and 105 of the *Youth Justice Act 1997* and fitness to plead assessments.

Delays in the preparation and delivery of these reports can stall proceedings for extended periods. Whilst the legislation recognises the importance of these reports being provided in a timely manner<sup>3</sup>, we have observed these reports can take several months. This results in significant delays, with children and young people having to appear before the court many times prior to resolution.

## Access to Legal Representation and Meaningful Participation

Access to legal representation is a foundational component of an effective justice system. There is a chronic and critical shortage of criminal defence lawyers in Tasmania, impacting the ability of accused persons to obtain timely representation. This is especially the case for children and young people whose parents or caregivers cannot engage a private legal practitioner on a fee-paying basis.

In addition to the chronic shortage of criminal defence lawyers, children and young people in detention face persistent additional barriers to accessing legal advice. The telephone system at Ashley Youth Detention Centre prevents children and young people receiving calls from their lawyers, placing responsibility on children and young people themselves to make calls in the context of an ever-changing environment and in circumstance where they are not always confident to make calls to professionals' offices. I am also aware that appointments are regularly cancelled because of competing operational requirements, which result in children and young people spending further time in detention. When appointments proceed, they do not always occur in a private and confidential space, which affects the quality of instructions provided.

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<sup>2</sup> The Hon Elise Archer MP, *Second Reading Speech*, 10 September 2019: [Second Reading Speech - Magistrates Court \(Criminal and General Division\) Bill](#).

<sup>3</sup> Section 105 of the *Youth Justice Act 1997* states that proceedings must not be adjourned for more than 7 days.



Many young people in the criminal justice system have disability and may experience literacy and comprehension barriers. They are often required to engage with complex and voluminous legal documents and processes. Far greater support is needed to ensure that children and young people can understand the material provided to them and are well placed to provide informed and timely instructions to their lawyers. Without this, their right to participate meaningfully in their proceedings is compromised.

The Tasmania Legal Aid Duty Lawyer program currently being delivered at Ashley has assisted to alleviate some of these identified barriers, and children and young people are familiar with and often speak positively of the duty lawyer. However, I understand this program does not have ongoing funding. Further, for a variety of reasons, children and young people require equitable access to non-Legal Aid lawyers.

### **Systemic Reform**

Consistent with longstanding observations, meaningful systems reform must include a focus on:

- Reducing the number of children entering or remaining in the criminal justice system, including through greater use of diversion and cautions, and strengthened transitional supports to prevent return to the system.
- Strengthened investment in restorative justice processes to help resolve matters earlier and more effectively.
- Proactive and consistent case management to ensure matters progress efficiently and effectively.

Early intervention and structured case progression are critical to reducing court backlog and improving outcomes for children and young people and affected communities alike.

Reducing delay in the criminal justice system requires a co-ordinated, well-resourced, and rights-focused approach. Particular attention must be given to the experiences of children and young people, for whom delay has especially harmful consequences.

Thank you again for the opportunity to contribute to this Review.

Yours sincerely,

**Isabelle Crompton**

Interim Commissioner for Children and Young People

*cc: The Hon Jo Palmer MLC, Minister for Children and Youth*