

**Statement in relation to the surveillance activities of Tasmania Police at Risdon Prison –  
Tasmania v Thompson (No.2) [2022] TASSC 55**

The Supreme Court of Tasmania has recently published the decision *Tasmania v Thompson* (No.2) [2022] TASSC 55, which is a decision at first instance of His Honour Justice Michael Brett.

That decision, whilst concerned with evidentiary matters related to the prosecution of Jeffrey Thompson, also revealed that Tasmania Police had kept a surveillance device running for a period of about two months, continuously, in a Risdon Prison interview room utilised by other lawyers and their clients.

In making his ruling on the issues in *Thompson*, His Honour Justice Brett stated at [30]:

*“these devices were left to continually record throughout the entire period between 15 June and 17 August 2017. I have no difficulty inferring that during this time there would have been many sensitive and privileged conversations between lawyers and their clients, and perhaps other private conversations which were completely irrelevant to this investigation and not authorised for recording by the warrant. The persons concerned would have had absolutely no idea that their conversations were being recorded and were capable of being monitored, in real time, by police and other authorities.”* (Emphasis added).

Moreover, Tasmania Police knew, at the time they sought a warrant, that the surveillance device would be continuously recording. Justice Brett rebuked Tasmania Police for omitting to tell the issuing Magistrate about this fact when applying for the surveillance warrant, stating, at [31]:

*“The real problem here is that this information was something which the magistrate was required to take into account when deciding whether to issue the warrant, and if so, on what terms and conditions. These considerations had real potential to interfere with the privacy of other persons and this is a mandatory consideration for a magistrate when determining whether to issue the warrant. **Had the magistrate been made aware of these matters, he may well have declined to issue the warrant or at the very least placed conditions upon it.** For example, a simple condition which required the authorities to switch the recording devices on only for the duration of any arranged and notified relevant conversation would have taken care of this problem. **The fact that the magistrate was not told about this, and that police in any event did not implement these measures, is a matter of significant concern.**”* (Emphasis added).

The conduct of Tasmania Police in relation to the investigation of Mr Thompson fundamentally undermines the rule of law and impedes the ability of lawyers to properly represent their clients. It also represents a massive breach of trust by Police, Risdon Prison, and in turn the State of Tasmania in relation to lawyers (and clients) who have always accepted that their prison communications will be private, and that legal professional privilege is fully respected.

While it is accepted that in *some unique* circumstances the ‘bugging’ of lawyer-client communications might be appropriate this was not one of those cases. The right to privileged communications between a lawyer and a client is a fundamental common law and human right.

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These conversations were improperly or illegally obtained, and the conduct of Tasmania Police is to be denounced in the strongest of terms.

Authorised by:

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