

# GREAT RESPONSIBILITY:

Report on the 2019  
Pilot Inspection of the Adelaide  
Youth Training Centre (Kurlana  
Tapa Youth Justice Centre)



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# GLOSSARY

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Aboriginal and Torres Strait Islander Youth Justice Principle	This Principle is established in the Act and outlined in Part 2 of the associated <i>Youth Justice Administration Regulations 2016</i> .
Act	'The Act' referred to throughout this report, unless explicitly stated otherwise, is the <i>Youth Justice Administration Act 2016 (SA)</i>
ARIG	The At Risk Intelligence Group is an internal AYTC multi-disciplinary forum that meets regularly to help coordinate detainee management.
BSF – Behaviour Support Framework	The BSF is the behaviour support and incentive program implemented at the AYTC. Its primary impact is the allocation of a detainee to one of three phase levels which have privileges attached.
CAMHS	Child and Adolescent Mental Health Service
Charter / Youth Justice Charter	The <i>Charter of Rights for Youths Detained in Detention Centres</i> (provided as Attachment 6 to this report)
Dual status/Dual involved	We use this term to refer to the status of children and young people who are clients of both the child protection and youth detention systems
DCP	Department for Child Protection
DHS	Department of Human Services
Dynamic Model	This term relates to the consolidation and undertaking of AYTC operations on the Goldsborough campus in 2019, given effect by the move from Jonal campus of female detainees (10-18 years) and younger males (10 to 14 years).
GCYP	Penny Wright holds the separate statutory appointment of Guardian for Children and Young People. The TCVU operates from the Office of the GCYP.
MAYBO	AYTC staff are trained in the MAYBO SAFER conflict management and physical intervention model.
MAYFS	Metropolitan Aboriginal Youth and Family Services
OPCAT	Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Residential Care	This refers to the congregate living placement option within which many children and young people detained at the AYTC live when not in custody.

Restrictive Practices	This term is used in this report to indicate any management of a detainee that restricts their movement or limits physical freedom to a greater extent than simply holding them in custody (see Part 6.3.4).
Review(s) of RecordS	These are the quarterly reviews of requested DHS/AYTC documents undertaken by the TCVU as part of the TCV's oversight processes.
Routines	Restricted, Structured, Admissions – see footnotes in Part 1.2 of this report
TCVU	The Training Centre Visitor Unit supports Penny Wright, the TCV, to undertake her responsibilities under the Act.
Unit(s)	Children and young people live in several accommodation units at the AYTC. The current model is described in Part 1.1 of this report.
Visiting Program	Ongoing oversight of the AYTC is implemented through a visiting program undertaken in rolling three monthly cycles by the TCVU.
YEC	The Youth Education Centre is the on-site school maintained at the AYTC by the Education Department.
YJAAC	Youth Justice Aboriginal Advisory Committee
YJAIS	The Youth Justice Assessment and Intervention Service was a recent pilot multi-disciplinary process that has now been established as an ongoing effort.
Youth Justice State Plan	<i>Young People Connected, Communities Protected</i> is the SA Government's Youth Justice State Plan, 2020-2023 released in June 2020.

# INTRODUCTORY NOTES

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This report was written by Alan Fairley, Belinda Lorek and Jessica Flynn. Critical commentary and other support for the report was provided by Inspection team members Travis Thomas, Conrad Morris, Sarah-Jane Meakin and Mardy McDonald from the Office of the Guardian for Children and Young People. We benefitted also from a contribution from Brooke Washusen, an intern on placement from the University of Adelaide Law School.

The draft was edited by Penny Wright and Dr Michael Savvas – [msavvas@hotmail.com](mailto:msavvas@hotmail.com)

Dr Simone Deegan, a lecturer at Flinders University and the University of South Australia, was contracted to distil material and identify important themes arising from the interviews with young people. Dr Deegan's report is Attachment Two.

Artwork used in this report was produced by several young people during the inspection for this purpose. It is part of their message to you.

Penny Wright acknowledges in her preface the support we received from many people in the Department of Human Services, the Adelaide Youth Training Centre and from other agencies that was necessary to successfully complete the inspection. A specific thank you is extended to managers and other local staff at the AYTC who undertook many facilitative tasks before, during and after the on-site process.

## Language and terminology

### Kurlana Tapa

A process is underway to use the community approved title Kurlana Tapa as the principal name of the Adelaide Youth Training Centre (AYTC). Kurlana Tapa means New Path in the language of the Kaurna people of the Adelaide Plains. While the Training

Centre Visitor welcomes the imminent use of this community sanctioned name, we have retained the facility title which was current at the time of the pilot inspection in November 2019 as the appropriate 'point in time' terminology for the purpose of this report.

### Aboriginal

Responding to community preference, this report maintains the TCV's standard usage of the term Aboriginal as inclusive of both Aboriginal and Torres Strait Islander communities in South Australia.

### Describing the children and young people

In this report we have been challenged to find an appropriate word to refer to the detained children and young people in the AYTC. As a result, we have ended up using several terms interchangeably. The term used in the legislation is 'residents' but this is euphemistic. By suggesting they are 'residing' at the Training Centre, with implications of choice and permanence, it masks the reality of their detention. We have mainly opted to describe these children and young people as 'detainees' because this is strictly accurate and their detained status is the one thing they all have in common (whether they are in the Centre overnight or for years). However, we acknowledge that this does not reflect their individuality and unique personalities or remind us that they are young (with some as young as ten). Importantly, it also does not serve to remind us that most of them have not actually been convicted or sentenced for an offence at the time we meet them in the Centre and have the right to be regarded as being notionally innocent.

The inspection standards use the term resident, drawn from the legislation.

## Robust voices – language warning

Our determination to amplify the voices of detainees means that this report comes with a language warning. We do not think that the ‘strength’ of some of this differs in any way from language use by young people in our general community. The same goes for the robust language sometimes used by members of staff.

In both cases this means that some quotes will be considered offensive or non-inclusive, but we hope that the context for the citation warrants that use.

Our overriding consideration then became how to present these views while respecting the privacy of participants and maintaining confidentiality. This means, among other things, that we did not use some of the most dramatic examples we could have used.

Readers should also recognise that we have not sought to dilute the strength of some views expressed (although moderation has occurred with respect to individual-focussed allegations or character assessments). The TCV and her staff do not necessarily endorse the opinions we present.

## A caution

The length of this inaugural inspection report is partly due to our decision to incorporate and transmit the views of key stakeholders in the pilot inspection process: detained children and young people, staff and DHS/AYTC management. All interviewees and correspondents gave explicit consent to their views being used for reporting purposes.

Some of the material in this report may be distressing to readers. If so, we encourage you to seek support from family, friends and community or ring an agency for support or referral including Kids Help Line on 1800 551 800, or Lifeline on 13 11 14.

This report may also contain sensitive and distressing information relating to Aboriginal families and communities. Some of the emerging themes and experiences for Aboriginal children and young people are not positive and are against a backdrop of intergenerational trauma and experiences of racism. We have done our best to honour their voices and experience in the ways they have asked. We encourage readers to seek support from family, friends, communities or a member of our staff.



# PREFACE

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## FROM THE TRAINING CENTRE VISITOR

This report represents the culmination of two years of development since the Training Centre Visitor (TCV) role and the Training Centre Visitor Unit commenced in 2017. Since then a substantial amount of work has taken place to establish the processes and procedures, policies and practices necessary to conduct a thorough program of visiting, advocacy, reviews of records, inquiry and, now finally, an inspection at the Adelaide Youth Training Centre, in November 2019.

The role of Training Centre Visitor is a privileged one. Assisted by my dedicated staff, I am entrusted by the South Australian parliament and public to oversee the rights and best interests of some of the most beleaguered children and young people in South Australia. These are children as young as ten, and young people or young adults up to 18 or 19, who are detained in a locked facility, away from family, friends and community, for periods stretching from

days to years. The vast majority are on remand and some of them will never actually be convicted of any offence.

The chief objects of the Training Centre are to promote the rehabilitation of these young people, help realise their potential and support their reintegration with the community. The governing legislation also requires adequate arrangements for their physical, psychological and emotional wellbeing and for their social, cultural, educational and vocational development.

These are laudable objects. But they cannot be achieved without acknowledging the experiences that have brought these children and young people into the Centre and actively helping them overcome the enduring effects of these experiences. In the course of a year, more than 50 per cent of the individual detainees will be Aboriginal, reflecting a legacy of dispossession and intergenerational

disadvantage. More than a quarter will be 'dual-involved' children and young people, coming from the out of home care system, and mostly from residential care. During their short lives almost all of the residents will have been exposed to family violence, substance abuse and highly traumatic events. Overall, most will have significant needs in relation to trauma, developmental disadvantage, mental ill-health and disability.

Many of these themes are apparent in this report. It is the TCV's role to ask how objectives like rehabilitation and reintegration, growth and development are being pursued at the Adelaide Youth Training Centre and inform the Minister and the public as to whether they are being met.

In designing this inspection we took account of the modest resources available to the TCV program and the need to try it out and then refine it in the future on the basis of what we learned. For that reason

we have called this a Pilot Inspection and restricted our scope to the consideration of 10 standards. The development of our methodology is detailed in the body of the report. We elected to evaluate the standards against three possible outcomes: Needs Attention, Passable and On Track.

Some of this report will not make comfortable reading. Our evaluation reflects the situation as we found it as at November 2019 and there were few standards where we could report that the Centre is unequivocally 'On Track'. We found that most standards are 'Passable' or 'Need Attention'.

There is no doubt that many of the aspirations and goals of the Centre are worthy but hampered by a lack of resourcing. This is often manifested in too few staff to facilitate aspects of campus life like access to education, training, programs to promote growth and development, medical and mental health care and external leave for funerals, cultural



events and vocational training. But it is exactly these kinds of activities and services which are crucial if the objectives of rehabilitation and reintegration are to be met.

However, since the inspection there have been some encouraging developments and some of our concerns have been allayed, or there is at least a process underway. Where possible, we have tried to acknowledge when this is the case.

The establishment of the TCV has entailed a demanding journey for the management and staff of the AYTC (as well as the Division of Youth Justice in the Department of Human Services). Before 2017 there was no systematic program of independent oversight. The TCV program of regular visiting, reviews of records, requests for data, individual advocacy and advocacy for substantial system changes has made significant and novel demands on the time and resources of many. For operational staff it is not always easy or comfortable to have 'outsiders' coming into their workplace and seeing them at work, especially when that workplace is also an environment with inherent risks and challenges. Despite this we are generally met with great courtesy, cooperation and assistance.

There is no doubt that there are many, many committed and caring staff at the Centre. One young person expressed this simply but from the heart:

*"Some (workers) really care about kids."*

We are grateful for the good grace of the AYTC management and staff and other service providers (health, education), together with DHS staff and Executive who made time to meet with us for the inspection and share their views. We have striven to reflect what we heard with accuracy and respect. We especially thank the staff who were willing to explore sometimes uncomfortable themes with us in the interests of 'telling it straight' and giving us their perspective on the challenges of working in the unique Training Centre environment.

It is important to note that this report does occasionally contain unflinching descriptions from young people and staff of events or perceptions or incidents. We have generally chosen not to sanitise some terms, in order to reflect the reality of life in the Centre, so some language may be experienced as offensive by some readers.

My thanks go to my TCVU team, the other staff from my office who helped in a myriad of ways, our external consultants (some of whom generously assisted us 'in kind') and everyone who supported us to complete this Pilot Inspection.

Finally, I want to thank the children and young people in the AYTC. Their voice is crucial to my ability to do my work. Not only does my guiding legislation require me to encourage residents to express their own views and to give proper weight to those views but this is a central tenet of the way the TCVU team operates. For that reason we were



thrilled by the willingness of the residents to speak to us in the course of the Inspection and their generous perseverance with a series of interview questions that took up to an hour to complete. We hope this report does justice to their input – we have done our best to honour their contribution faithfully.

Achieving rehabilitation and reintegration for young people in the youth justice system (some of whom return again and again) will not only benefit them, but all of us, helping to make our whole community safer. What happens in the AYTC, of course, is not enough. There is much to be done outside the Centre as well. But given that our community chooses to spend significant resources on detaining these young people, why would we not make sure their opportunities for growth and support are as effective as they can possibly be? Ultimately, the choice is ours.

This?

*"I withdraw to my cell, which it is. The public don't want to know we are locking kids up; that is why it is called a training centre and not a jail."*

Or this?

*"Staff are heaps good—they talk to you in good ways, help you out, care about you. They are trying to help us in here be good. I don't want to end up in the big jail. I want to get a job, get paid."*

Handwritten signature of Penny Wright.

Penny Wright  
*Training Centre Visitor*

# EXECUTIVE SUMMARY

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The Adelaide Youth Training Centre is the sole youth justice detention 'training centre' in South Australia. Children and young people aged between 10 and 19 are detained at the Centre because they are either being held in police custody on the Training Centre campus and awaiting their first court hearing, on remand (the significant majority) or serving a sentence.

At the time of the inspection 39 detainees were accommodated at the Training Centre, a figure that coincided with the average daily population for the Centre over the 2018-2019 financial year. However, the population fluctuates and can be as high as 50 or more.

The Training Centre has two campuses and is located in northern metropolitan Adelaide. At the time of the inspection in November 2019, the campuses had recently been amalgamated at one location with five 12-bed living units, in Goldsborough Road, Cavan, under a trial 'dynamic model'.

The *Youth Justice Administration Act 2016* (the Act) established the independent Training Centre Visitor role to perform a range of functions including visiting the Training Centre, advocacy for residents and promoting their best interests, advising the Minister, inquiring into necessary systemic reform and conducting inspections. This was the TCV's first inspection, which we have characterised as a 'Pilot Inspection', on the understanding that it is a methodology and process that will be evaluated, refined and further developed.

Some of the key objectives of the *Youth Justice Administration Act 2016* are to provide for the safe, humane and secure management of youths held in training centres, to provide for appropriate programs,

to promote their rehabilitation, to realise their potential and to support their reintegration with the community. These considerations have underpinned the methodology and the standards and indicators developed for this Pilot Inspection.

We evaluated the performance of the Training Centre against 10 standards, with each supported by a series of indicators, as presented in the table below and discussed in Part 2.1 of the report.

Evidence for the evaluation of the AYTC's performance was derived from extensive interviews with 34 detainees, interviews with AYTC operational staff and other agency staff (education, health), interviews and written responses from AYTC and DHS management and focus group responses together with information previously obtained from advocacy, visiting and reviews of records since the TCV program was established in 2017<sup>1</sup>

An assessment was made for each indicator, and ultimately each standard, on a continuum ranging from *needs attention* through *passable* to *on track*. It was decided to draw broad conclusions as this was a pilot process and we were testing an inspection design and methodology to gather insights for the future.

*Needs attention* suggests that something should be done immediately to address concerns raised through the Inspection about that standard/indicator. *Passable* means that there are some concerns but they do not necessarily need immediate or prioritised attention. *On track* suggests that the relevant standard/indicator was being addressed appropriately at the time of the Pilot Inspection.

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<sup>1</sup> As discussed in Part 3.2 Methodology and Reporting

The findings are summarised in the Table below and discussed in Part 2.1.2

Standard	Assessment
1	<p>Residents are safe.</p> <p>Detainees broadly felt physically safe but support for their emotional and psychosocial safety <i>needs attention</i>. Particular areas of concern were the prevalence of bullying, detainees with special needs or vulnerabilities and a need for support for detainees to restore and maintain relationships.</p> <p><b>Related recommendations: 7 &amp; 8</b></p>
2	<p>Residents are treated with respect and dignity</p> <p>AYTC's performance was <i>passable</i>. Detainees' own views were significant here due to the subjectivity of this standard, supplemented by staff and management. Detainees described various examples of respectful treatment and interactions and spoke highly of some staff. However, there was also evidence, from both detainees and staff, about concerning individual staff attitudes and behaviour. There was also room for improvement in areas such as equitable and fair treatment, compliance with Charter rights and the realities of housing children and young people in a prison-like environment. The Behaviour Support Framework is not particularly valued by the detainees and the TCV recommends it be reviewed.</p> <p><b>Related recommendations: 1, 2 &amp; 7</b></p>
3	<p>On admission, residents' educational, health and psychosocial needs are screened and assessed, and they are provided with immediate information about their rights and responsibilities</p> <p>AYTC was <i>passable</i> to <i>on track</i>. However, it is not possible to say that medical, psychological and psychiatric treatment or that the psychosocial needs of residents are screened for and assessed in a timely way. Individual detainee needs are not always identified and adequately addressed. This is particularly the case for dual-involved young people (who are also in the Child Protection system) and Aboriginal children and young people.</p> <p>The majority of young people interviewed were not aware of the relevant Charter of Rights.</p> <p><b>Related recommendation: 8</b></p>
4	<p>The AYTC supports the identity and values of residents, including with respect to cultural, spiritual/religious and ethical life domains</p> <p>This area <i>needs attention</i>. There are serious limitations to detainees' participation in practices and activities that reflect their values both inside and outside AYTC, despite policy settings and declared intentions. This seems to be due to a lack of resources. There are also difficulties in accessing appropriate religious/spiritual/ethical advisors or representatives for detainees, especially where English is not their first language. However, appropriate food is generally provided to reflect identity and values.</p> <p><b>Related recommendation: 7</b></p>

5	The individual cultural identity of Aboriginal and Torres Strait Islander residents is recognised, and their beliefs and practices are supported, respected and upheld	<p>The inspection substantiated existing concerns raised in previous reports. The AYTC did not achieve the cultural referral and reporting required in legislation and operational orders and this <i>needs attention</i>.</p> <p>Aboriginal children and young people did not have access to cultural programs and activities that have regard to their age, gender, maturity and individual cultural journey, and their individual cultural support plans are not usually developed in conjunction with detainees or their family or community members. Staff have access to some cultural training and often demonstrate culturally respectful engagement. Specific incidents and concerns have been raised with DHS and AYTC management. Aboriginal detainees do not have a culturally safe space to engage with family, community and support services.</p> <p>These findings cast doubt on the AYTC's observation of the Aboriginal Youth Justice Principle.</p> <p>The TCV has made a recommendation in relation to this standard.</p> <p><b>Related recommendations: 6 &amp; 7</b></p>
6	Residents receive appropriate health care services	<p>Different elements of this standard are generally <i>passable</i> or <i>on track</i>. Detainees overwhelmingly value their interaction with health services and related staff. On and off-site health assessment and treatment are operational priorities in principle, but adequate arrangements are not always in place. Generally, detainees reported an improvement in their <i>physical</i> health while in detention but not always their wellbeing, due to various factors considered throughout the report. Access to essential on-site health care services is an issue.</p> <p>Detainees do not always have access to regular psychiatric reviews and there is not a consistent therapeutic environment available. (This indicator, 6.2, <i>needs attention</i>.)</p> <p><b>Related recommendation: 8</b></p>
7	Restrictive, disciplinary or intrusive practices are used only when no alternative method is available and with due regard for residents' individual characteristics and right to privacy.	<p>Performance against this standard <i>needs attention</i>. The finding is that the AYTC does not <i>only</i> use restrictive, disciplinary or intrusive practices when no alternative method is available, nor does it have due regard for detainees' individual characteristics and right to privacy. This applies to practices that include: use of safe room, use restraint as a last resort and never as punishment, seeking of resident feedback following any restrictive or disciplinary practice, information about rights to privacy (including use of CCTV in bedrooms and toilets/ showers, and use of semi-naked search processes).</p> <p><b>Related recommendation 2</b></p>

8	Education and training opportunities are accessible and reflect the aspirations of individual residents	<p>Most detainees value participation in education and often remark on the importance of that experience within the Centre and their valuable relationships with YEC staff. Provision of education and training at AYTC ranges from <i>passable</i> to <i>being on track</i>.</p> <p>It is clear that the right of detainees to participate in education is frequently compromised by AYTC operational factors such as staffing ratio requirements, (sometimes compounded by staff absenteeism).</p> <p>Not all detainees have access to education or training opportunities that meet their aspirations or their individual needs. 'Consequences' for behaviour or security concerns can prevent participation in workshops or classes on-site and/or leave to attend vocational training off-site.</p> <p>The recent campus consolidation affected the opportunities for girls and young women and those who do not have English as a first language (or at all).</p> <p><b>Related recommendations: 1 &amp; 4</b></p>
9	All residents participate in case planning and have a comprehensive case plan.	<p>The Centre was seen to be broadly <i>on track</i>.</p> <p>However, detainees were not sure their views always informed their case planning, and it is not clear that their participation in case conferences or plan reviews was always meaningful.</p> <p>It is not clear that case plans are sufficiently responsive to the circumstances of a detainee (which may vary from detention for a day to years and on one occasion or multiple times). There were questions about the adequacy of dual care plans for dual-involved children and young people, and the information available to AYTC staff and data sharing between DHS and DCP.</p> <p><b>Related recommendations: 6, 9 &amp; 10</b></p>
10	Residents access and value transparent grievance processes	<p>Previous TCV reports had raised concerns about the need to provide detainees with a fair and timely grievance process and grievance processes that are transparent, accessible and responsive to detainees' needs. This area still <i>needs attention</i>.</p> <p>The AYTC needs to improve current arrangements to enable an adequate response to systemic or operational issues that come out of individual or group grievances and develop other feedback opportunities.</p> <p>However, there was a positive assessment that detainees are not generally obstructed in their right to access independent complaint processes or external visitors or agencies. It is positive to observe that staff usually ensure this access occurs expeditiously and they understand why a detainee's right to have access is a core principle of the detention environment.</p> <p><b>Related recommendation: 3</b></p>

In addition to the findings against the indicators and standards, the report contains commentary, observations and suggestions that may contribute to an understanding of the experience of children and young people in the AYTC and serve to stimulate constructive discussion about how best to meet the objectives of the Act. Some of these have made their way into recommendations.

One is the observation, from some staff and observers, as well as the Inspection team, that an enduring 'correctional/custodial' mindset and a predominant impulse to avoid all risk discourages conditions that are likely to promote growth, rehabilitation and reintegration. Recommendation 1 is designed to test whether the right balance has been struck.

It is clear that particular challenges have come out of the recent amalgamation of the Jonal campus with that of Goldsborough. The physical locations at Goldsborough (including accommodation units and education facilities) now have to serve a (usually) larger and more diverse population of older males, females and younger males and this has been compounded by a rigid requirement of non-mixing between males and females. There is less flexibility to accommodate particular activities and it appears that the girls and young women have been particularly disadvantaged by this, on the back of previous TCV concerns that they have not had access to the same cultural and other programs as the older males. This issue has ramifications across several of the standards tested and has given rise to Recommendation 4.

## Recommendations

### Recommendation 1

That the model and associated custodial, protective and developmental policies and practices applied at the AYTC be reviewed to:

- a. assess their application and effectiveness in:
  - i. meeting the objects of the *Youth Justice Administration Act 2016 (SA)*, with particular regard to those objects that seek to promote the rehabilitation and reintegration of youths with the community; and
  - ii. providing detainees with the capacity to enjoy the rights expressed in section 22 of the Charter; and
- b. develop recommendations to ensure a balance between meeting the objects of security and correction on one hand and rehabilitation and reintegration on the other.

### Recommendation 2

- a. That DHS conduct an independent evaluation of the effectiveness of the AYTC Behaviour Support Framework (BSF) since its inauguration, including the extent to which it:
  - i. supports the optimal achievement of the objects of the Youth Justice Administration Act 2016 (SA); and
  - ii. responds to the needs of children and young people with varying cognitive abilities.
- b. That the reviewer should consult directly with detainees, staff and appropriate community members as a core review activity.

### Recommendation 3

That AYTC take immediate action to provide detainees, including those with specific communication support needs, with the following processes to seek formal responses to matters of concern to them:

- i. a formal grievance procedure supported by independent advocacy and oversight; and
- ii. a separate feedback mechanism through which detained children and young people can initiate consideration of general concerns and make suggestions about their lives in detention.

#### Recommendation 4

That DHS conduct an assessment of the ongoing consolidated AYTC operations at the Goldsborough Road Campus, in order to-

- a. establish clear expectations with respect to the following:
  - i. operational demands and resources;
  - ii. necessary staffing across work and functional competency areas;
  - iii. the capacity of the facility and associated amenities to meet current and anticipated demands;
  - iv. accommodation and facilities that meet the needs of individual and specific groups of detainees (including those identified in this report such as girls and young women);
  - v. access to core services at all times;
  - vi. minimal impediments to enjoyment of rights [under the Charter], including through access to appropriate recreational, health, educational and socialising opportunities;
  - vii. the suitability of the current blanket gender 'no-mix' rule for detainees;
- b. consider the impact of facility deficiencies identified in this report, including the following:
  - i. the need for a second accommodation unit for girls and young women that –
    - allows for separate living environments for detainees by age, as is currently the case for males;
    - provides access to operational features, such as regression space
  - ii. educational/training spaces and opportunities;
  - iii. recreational and outdoor spaces and opportunities;
  - iv. cultural safety and appropriateness;
  - v. Visitor Centre spaces;
  - vi. appropriateness for different status detainees: for example, those in police custody; those on remand (and presumptively innocent); and potentially new classes of children and young people being placed in secure care (such as those detained under Youth Treatment Orders);

- vii. provision of a step-down transition unit for long-term residents scheduled to return to the community; and

- c. obtain the views of detainees and staff through a consultation process.

#### Recommendation 5

That data and information collection, analysis, sharing and public reporting about children and young people in youth justice detention be improved, through –

- a. DHS seeking advice from the Office of Data Analytics to identify relevant information held across government agencies and the best way to develop a child-focused, quality information system that enables extraction, analysis and exchange of information (with appropriate safeguards, particularly with respect to privacy); and
- b. DHS initiating a collaborative process across government agencies to improve the collection, sharing, analysis and public reporting about children and young people in youth justice detention.

#### Recommendation 6

- a. That DHS publish an annual public report on its implementation of the *Aboriginal and Torres Strait Islander Youth Justice Principle* (reg.5 of the *Youth Justice Administration Regulations 2016* (SA));

and

- b. That the first such report pay specific attention to:
  - i. the views of detained Aboriginal children and young people and the broader Aboriginal community;
  - ii. the needs of detained Aboriginal girls and young women at the AYTC;
  - iii. the roles of Aboriginal staff at all levels of the AYTC and DHS Youth Justice;
  - iv. how detainees' access to Aboriginal staff (DHS) is ensured;
  - v. whether and how detainees are enabled to maintain meaningful connection with families and community

## Recommendation 7

That AYTC (and other government agencies with a responsibility for detainees including Education, Child Protection and Health) provide a broader range of programs and services to meet detainees' needs and aspirations, taking account of their individual capacities, developmental age, disabilities and/or psychosocial characteristics, including in the following areas:

- i. opportunities for girls and young women;
- ii. engagement with culture and community (including as provided for through the Aboriginal and Torres Strait Islander Youth Justice Principle);
- iii. personal development and self-identification across life domains [including "SOGIE"<sup>2</sup>]
- iv. drug and alcohol misuse and rehabilitation;
- v. independent living skills, including cooking and budgeting;
- vi. increased access to on and off-site educational, community and cultural opportunities;
- vii. anti-bullying and peer support
- viii. planned transition to post-detention life.

## Recommendation 8

That the AYTC and other responsible government agencies improve the assessment/diagnosis and support for detainees with diagnosed or suspected disabilities and unmet psychosocial or developmental needs, with specific consideration of:

- i. regular and ongoing staff training;
- ii. providing a physical environment that accommodates differing sensory needs;
- iii. greater access to disability supports across life domains;
- iv. collaboration and information-sharing across systems to enable a more consistent and therapeutic environment for detainees in and out of the Centre;
- v. collection and analysis of appropriate disability-related data for public reporting.

## Recommendation 9

That DHS review end-to-end case management to consider the post-custody needs of detainees in order to reduce reoffending and maximise opportunities for post-release success and community reintegration.

## Recommendation 10

That DHS and DCP liaise to maintain an accurate record of 'dual-involved' detainees who are under the Guardianship of the Chief Executive of DCP and that their status is recorded in the Daily Population Spreadsheet.

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<sup>2</sup> Sexual Orientation, Gender Identity and Expression

**PART A**  
**FORMALITIES AND FINDINGS**

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# 1. BACKGROUND – STATUTORY INSPECTION

## 1.1 The Training Centre Visitor's Role

As Training Centre Visitor (TCV), Penny Wright has oversight and advocacy responsibilities for children and young people detained in youth justice detention "training centres" in South Australia. This means her mandate currently applies to two campuses of the Adelaide Youth Training Centre (AYTC) in northern metropolitan Adelaide; Goldsborough Road and Jonal Drive.

In 2018-19 the average daily population of the AYTC was 39. There were 608 admissions to the Centre over that year, involving 299 individuals.

At the time of the inspection, 39 detainees were accommodated only at the Goldsborough campus as two sub-groups recently had been relocated temporarily from Jonal<sup>3</sup>.

The focus for the Pilot Inspection therefore was a single campus AYTC in which children and young people were housed in five 12-bed living units, each with a different purpose:

- ▶ Saltbush (generally used for new male admissions and the more vulnerable population);
- ▶ Wallaby Grass (for remand, short-term and longer-term male detainees);
- ▶ Blue Gum (the unit for 10- to 18-year-old girls and young women that also must cater for those placed on restricted and structured routines from within that unit);

- ▶ Kangaroo Paw (half the unit is for 10- to 14-year-old males, and half is generally used for police custody<sup>4</sup>);
- ▶ Frangipani (which is called and perceived by detainees to be a 'regression' unit<sup>5</sup> and also used for protective actions and, occasionally, for police custody).

Penny Wright is supported to implement her TCV functions by 2.5 FTE staff in the Training Centre Visitor Unit (TCVU) which operates from the Office of the Guardian for Children and Young People (the Guardian<sup>6</sup> being a separate independent function she also holds).

The TCVU undertook an intensive on-site Pilot Inspection of the AYTC from Saturday 23 to Thursday 28 November 2019 with some associated activities conducted outside this core period for practical reasons.

### The TCV's legislative mandate for inspections

The TCV was established by the Youth Justice Administration Act 2016 (SA) (the Act) to undertake various oversight functions, including the following:

- (a) *to conduct visits to training centres as required or authorised under this Part;*
- (b) *to conduct inspections of training centres as required or authorised under this Part;*
- (c) *to promote the best interests of the residents of a training centre;*
- (d) *to act as an advocate for the residents of a training centre to promote the proper resolution of issues relating to the care, treatment or control of the residents;*

<sup>3</sup> Jonal usually housed all female detainees (aged from 10 to 18 years) and younger males (10 to 14 years).

<sup>4</sup> Young people being held in police custody can be accommodated in various units depending on the number of young people admitted and restrictions that may apply to mixing certain individuals.

<sup>5</sup> DHS refers to Frangipani as the protective actions unit. It is typically used to house young people on Restricted and/or Structured routines or Association restrictions, or those requiring high levels of support and/or supervision.

<sup>6</sup> Given the significant number of detainees who are or have been involved in the child protection system (see Part 6.10 below), it is common for them to use the term "Guardian" when speaking with or about Penny Wright.

- (e) to inquire into, and provide advice to, the Minister in relation to any systemic reform necessary to improve—
- (i) the quality of care, treatment or control of residents of a training centre; or
  - (ii) the management of a training centre;
- (f) to inquire into and investigate any matter referred to the Visitor by the Minister;
- (g) any other functions assigned to the Visitor by this or any other Act.<sup>7</sup>

In carrying out these duties, the TCV must comply with s.12(1) of the Act and “act independently, impartially and in the public interest”<sup>8</sup> and must do as follows:

- ▶ pay particular attention to the needs and circumstances of residents who are under guardianship, or are Aboriginal or Torres Strait Islander young people, or have a physical, psychological or intellectual disability;<sup>9</sup>
- ▶ encourage residents to express their own views and give proper weight to those views;<sup>10</sup>
- ▶ have regard to the *Charter of Rights for Youths Detained in Training Centres*<sup>11</sup> (the Charter) and try to implement its terms “to the fullest extent possible”.<sup>12</sup>

The Charter (provided as Attachment 6) was developed from a model recommended by ANZCCG (Australian and New Zealand Children’s Commissioners and Guardians) to incorporate essential measures from international rules. Several local amendments were made to this model following formal consultation with detainees, staff and other stakeholders in 2015. The *Standards for Juvenile Custodial Facilities*,<sup>13</sup> overseen by the Australasian Youth Justice Administrators, also helped shape the Charter’s development.

Section 16 of the Act applies to visits to and inspections of the AYTC:

- (1) On a visit to a training centre under this Part, the Training Centre Visitor may—
- (a) so far as practicable, inspect all parts of the centre used for or relevant to the custody of youths; and
  - (b) so far as practicable, make any necessary inquiries about the care, treatment and control of each resident of the centre; and
  - (c) take any other action required to exercise the Visitor’s functions.<sup>14</sup>

The Act does not specify any other inspection requirements or provide any specific guidance about inspections. However, in considering the inspection function we took account of the objects and guiding principles set out in section 3 of the Act, including those provided for the Minister and Chief Executive of DHS and other persons involved in the administration of the Act.

Importantly, an Ombudsman’s report released shortly after the Inspection asserted that rehabilitation is the main focus of youth justice in South Australia. When designing and implementing the Pilot Inspection, the TCV took a similar view:

*A guiding principle of the Youth Justice Administration Act is to promote the rehabilitation of young people by providing them with the care, correction and guidance necessary for their development into responsible members of the community and the proper realisation of their potential. In other words, the main focus of youth justice in South Australia is rehabilitation.*<sup>15</sup>

<sup>7</sup> Youth Justice Administration Act 2016 (SA), s.14(1).

<sup>8</sup> Youth Justice Administration Act 2016 (SA), s.12(1).

<sup>9</sup> Youth Justice Administration Act 2016 (SA), s.14(2)(b).

<sup>10</sup> Youth Justice Administration Act 2016 (SA), s.14(2)(a).

<sup>11</sup> Office of the Guardian. (2018). Charter of rights for youths detained in training centres. <http://www.gcyp.sa.gov.au/wp-content/uploads/2018/11/Charter-of-Rights-for-Youths-Detained-in-Detention-Centres-TCV.pdf>

<sup>12</sup> Youth Justice Administration Act 2016 (SA), s.22(3).

<sup>13</sup> Australian Juvenile Justice Administrators. (1999). Standards for juvenile custodial facilities. <https://humanrights.gov.au/sites/default/files/Annexure%20H%20-%20AJJA%20Standards.pdf>

<sup>14</sup> Youth Justice Administration Act 2016 (SA), s.16(1).

<sup>15</sup> Ombudsman SA. (November 2019, para. 802). *Investigation into the treatment of young people in the Adelaide Youth Training Centre*. <https://www.ombudsman.sa.gov.au/wp-content/uploads/Department-for-Human-Services-%E2%80%93-Investigation-into-the-treatment-of-young-people-in-the-Adelaide-Youth-Training-Centre.pdf>

## Accountability to other domestic and international law and conventions

The TCV is also subject to other domestic and international obligations. This includes adherence to the *Children and Young People (Safety) Act 2017* (SA) (the Safety Act) given that the TCV is a State authority “whose functions and powers include matters relating to the safety and welfare of children and young people”. It follows that “early intervention in matters where children and young people may be at risk is a priority”.<sup>16</sup> Also, for AYTC detainees who are under guardianship orders, the TCV must exercise her powers and functions to give effect to the *Charter of Rights for Children and Young People in Care*,<sup>17</sup> in addition to the *Charter of Rights for Youths Detained in Training Centres*.<sup>18</sup>

These Safety Act provisions require the TCV to consider what the best interests of detained children and young people might be beyond those responding to their immediate experiences as residents of a training centre.

The Act also dictates that “to the extent practicable, international and national requirements or guidelines relating to the detention of youths”<sup>19</sup> are to be followed. This extends to critical subsidiary documents directly applicable to youth justice detention, including the following:

- ▶ the *Beijing Rules* (adopted by Australia in 1980), relating to youth justice administration;
- ▶ the *Havana Rules* (adopted by Australia in 1990), for the protection of incarcerated young people;
- ▶ the *Bangkok Rules* (adopted by Australia in 2011), for the treatment of women prisoners, including girls.

## 1.2 Statutory Charter of Rights

### The capacity of children and young people to exercise core rights

The *Charter of Rights for Youths Detained in Detention Centres* (the Charter) is explicitly required by s.22(3) of the Act and requires a person who exercises functions or powers under a relevant law “in any dealings with, or in relation to, a youth who is in detention [to] have regard to, and seek to implement to the fullest extent possible, the terms of the Charter”.<sup>20</sup>

This is a strong instruction, making it reasonable to suggest that any authority that has dealing with a child or young person in detention should be able to demonstrate that they do, in fact, exercise functions and powers under *any applicable law* in light of the Charter. This is an area of ongoing interest to the TCV.

Views offered by children and young people during the Inspection show how entitlements expressed in the Charter are often constrained by policy or operational decisions. This report offers insights into the many ways that guaranteed ‘rights’ can become secondary to the day-to-day operations of a detention facility (two examples of which are introduced in the accompanying text box).

The need for access to appropriate grievance mechanisms and other means through which detainees can provide feedback about their lives in detention are matters illuminated in various parts of this report, with some pertinent views of young people included under Theme 3 in Part 4 below and in relation to AYTC processes in Part 6.13.3.

<sup>16</sup> Children and Young People (Safety) Act 2017 (SA), s.9.

<sup>17</sup> Office of the Guardian. (2018). Charter of rights for children and young people in care. <http://www.gcyp.sa.gov.au/wp-content/uploads/2017/01/Charter-A4-printable-lizard-friendly.pdf?x26381>

<sup>18</sup> Children and Young People (Safety) Act 2017 (SA), s.13(9).

<sup>19</sup> Youth Justice Administration Act 2016 (SA), s.3(1)(d).

<sup>20</sup> Youth Justice Administration Act 2016 (SA), s.22(3). There is considerable confusion (among the young people and some staff at the centre) about which is the applicable charter. It is often assumed that the relevant charter is the Charter for Children and Young People in Care, rather than the Charter of Rights for Youths Detained in Detention Facilities required by the Act. This reflects the strong connection between many young people in detention and the child protection system.

## Accessing rights

The examples below arose in conversations with detainees during the Inspection. They help illustrate the ways in which core rights may not be realised in practice.

### *Access to off-site leave*

Detained children and young people are entitled to apply for leave for a variety of reasons, including a compassionate purpose<sup>21</sup>. A detainee reported that his request to attend a friend's funeral had been denied on the basis that he was on remand and therefore a higher security risk (which he saw as "strange" reasoning).

An aversion to risk is characteristic of a corrections environment and commonly prevails over the system's broader care and rehabilitation responsibilities. This is the case even where there is explicit guidance from an aspect of the *Aboriginal and Torres Strait Islander Youth Justice Principle*, set out in the *Youth Justice Administration Regulations (2016)*, that states that "youths will be supported to uphold their cultural responsibilities and have access to, and participation in, cultural ceremonies, funerals and cultural practices".

The TCVU requested a list of all applications made by young people for a leave of absence from the AYTC under the Chief Executive's authority, pursuant to s.34.<sup>22</sup> There were ten applications during 2019, of which seven related to funeral attendance. Six of the seven applications were made by Aboriginal young people.

Five of the funerals were in regional South Australia and were not approved or supported.<sup>23</sup> The two applications which were approved were local (i.e. less than an hour's journey from the AYTC).

Ongoing TCVU work has shown that attendance by detainees at funerals is problematic. This is not just because of the reasoning evident in this example, but also because there is serious doubt about the capacity of the AYTC staffing model to support off-site opportunities such as funeral attendance or attendance at programs or educational opportunities, in most circumstances. Staffing capacity also influences detainees' attendance at off-site medical appointments.

### *Phone access to lawyers*

Two detainees separately described difficulties they had experienced when trying to phone their lawyers.<sup>24</sup> One said he had been prevented from making calls at times, due to operational practices or decisions. Asked for an example of this, the young man identified the impact of excessive lockdown times (such as extending over the scheduled shift change-over times) as being the reason given for his calls not being facilitated.

21 *Youth Justice Administration Act 2016 (SA)*, s.34.

22 The period in question was October 2018 to the end of June 2019.

23 The TCVU did not request all rationales for refusal. Reviewed applications were those relating to security risks. In reference to other applications, several staff discussed difficulties with travel arrangements and staffing leave.

24 Detained children have the right to seek help from and talk privately to a lawyer.

## DHS perspective

Under the Act, “the AYTC must seek to implement the rights guaranteed in the Charter to the fullest extent possible”<sup>25</sup> and achieve this in a range of ways, including through service provision and support. The Department of Human Services SA (DHS), the Department within which the AYTC operates, provided written advice about what had been done since 1 October 2018 to promote and support detainees’ access to rights guaranteed in the Charter.

DHS observed that, in accordance with the Charter, children and young people will be taken through a verbal and written induction process on admission to the AYTC during which their rights, complaints processes and ways to contact the TCV will be explained. While DHS stated that the Charter is displayed throughout the Centre, this observation was *not* verified during the Inspection, as only the *Charter of Rights for Children in Care* was seen.

DHS advised that AYTC operational orders were developed to align with the Act and the Charter.

DHS described improvements or initiatives that had been implemented since 1 October 2018 to support detainees’ access to Charter rights:

- ▶ “The right to be treated with respect and dignity has recently been strengthened through practice changes in relation to resident privacy. Young people now have access to improved privacy curtains that cover both the shower and toilet area, as well as window covering when showering.”
- ▶ DHS/AYTC have taken initiatives with respect to disability support (see discussion in Part 6.8 below).

- ▶ A register for recording all locum visits has been established to ensure that the attendance of medical professionals can now be tracked<sup>26</sup>.
- ▶ Metropolitan Aboriginal Youth and Family Services (MAYFS) is working to expand its services within the AYTC to increase culturally specific supports.
- ▶ A comprehensive independent review of all policy and practice related to security and operational matters has been initiated, “with a focus on isolation, segregation, mechanical restraints and the use of force.”<sup>27</sup>
- ▶ “The Department [DHS] has also committed to reviewing all complaints and feedback procedures at the AYTC, to ensure the most appropriate practices and processes are in place. Young people will be consulted in this review. In the meantime, improvements have been made to include a new manager triage process and escalation to the Incident Management Unit where necessary.”<sup>28</sup>
- ▶ “The AYTC have reviewed processes and practices and have issued or are drafting GM (General Manager’s) Notices that seek to minimise time in room for residents on Restricted Routine,<sup>29</sup> Structured Routine<sup>30</sup> and Admission Routine<sup>31</sup> and residents subject to modified routine due to staffing.”

These initiatives are welcomed.

**Recommendation 3 responds to these issues**

<sup>25</sup> *Youth Justice Administration Act 2016 (SA)*, s.22.

<sup>26</sup> This initiative followed concerns being raised by the TCVU about availability of relevant records.

<sup>27</sup> The final report was received in June 2020.

<sup>28</sup> This is captured in the *Youth Justice State Plan (2020–2023)*.

<sup>29</sup> Employing a Restricted Routine constitutes the use of segregation under the *Youth Justice Administration Act 2016 (SA)* (the Act), as such usage places necessary restrictions, either through time in a room or by other means, on the association of a young person with their peers. The Act prohibits the use of segregation, except in prescribed circumstances (AYTC Operational Order 69).

<sup>30</sup> A Structured Routine is applied as a (typically) short-term response to a detainee assessed as posing a risk (to self, others or the security of the Centre) that cannot be effectively managed through increased opportunities for participation in programs, activities and education. A Structured Routine focuses on providing extra support through individualised protective actions and, where possible, aims to transition a detainee back to Phase One status or, in certain circumstances, to the detainee’s previous phase level (AYTC Operational Order 69).

<sup>31</sup> The Admissions Routine is an initial period (lasting 3–5 days) following admission, encompassing a court-ordered mandate for detainees to be screened regarding their individual education, health and case coordinator-led behavioural support needs. The aim of the Admissions Routine is to orientate the detainee to Centre life, with a focus on protective actions and the detainee’s transition to Phase One as soon as possible. Detainees in the Admission Phase associate with other detainees in their immediate peer group and have access to education and stimulation resources and activities that assist the new detainee’s transition into the Centre (AYTC Operational Order 69).



GOLDSBOROUGH ROAD  
CAMPUS GARDENS

## 1.3 The TCV oversight program

### 1.3.1 Factors contributing to the (integrated) Pilot Inspection model

The first inspection under s.14(1)(b) of the Act was designed and implemented as a *pilot* inspection, to draw together and conclude the two-year establishment phase of the TCV Program. The aim was to integrate this inspection with the TCV's other oversight functions, notably visiting and advocacy, that had been progressively implemented since the establishment of the TCV Program in late 2017.

The model developed for the Pilot Inspection is quite novel, reflecting aspects of analogous systems from other jurisdictions. For example, integration of the Visiting and Inspection functions echoes some features of Western Australia's continuous inspection model, while the rights-based approach reflects practice in Scotland, New Zealand and the Australian Capital Territory. Development of the model was also influenced by reports from recent inquiries and Royal Commissions and good practice guidelines identified by the Australasian Youth Justice Administrators Group and others.

This model directly responds to the Act and associated influences such as the *Aboriginal and Torres Strait Islander Youth Justice Principle*, international covenants such as the *United Nations Convention on the Rights of the Child* (UNCRC) and the *Charter of Rights for Youths Detained in Detention Centres* (the Charter). Ultimately, a rights-focused and child-centred approach was chosen, guided by the enabling legislation.

The TCVU's approach to oversight has the practical effect of spreading some inspection activities throughout the year, rather than concentrating them within a single event or point in time. It allows inspection activities to be undertaken in conjunction with other TCV functions such as intensive Reviews of Records conducted quarterly to monitor core AYTC operations (see Diagram 1).

The Pilot Inspection team identified many benefits of this rolling approach, including the following:

- ▶ A larger pool of detainees would be involved.<sup>32</sup>
- ▶ In-depth, labour-intensive Reviews of Records (i.e., documents) are best spread over four quarterly sessions.
- ▶ Learning from the Visiting Program would inform the formal inspection.
- ▶ It was the most efficient way to deploy a small team with limited resources
- ▶ It developed relationships and drew on regular engagement with key stakeholders and processes.

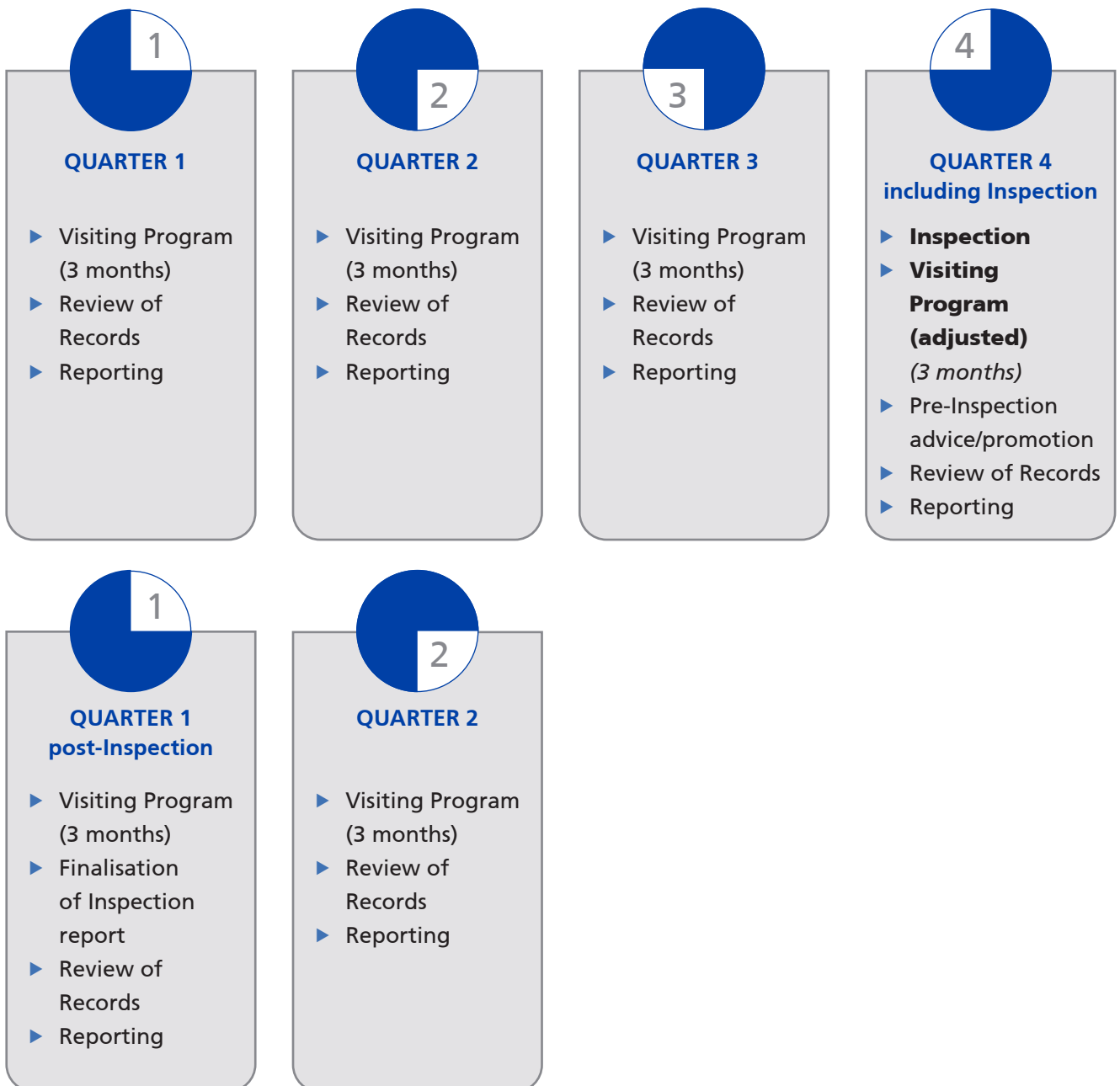
A targeted set of 10 standards and associated indicators were developed for and applied during the Pilot Inspection, as introduced in Part 2.1.

<sup>32</sup> We were concerned that some minority groups may not have been represented within the detainee population on formal Inspection days when interviews were being conducted. This proved to be the case for the youngest group of children and young people: those in the 10- to 12-year-old age bracket. Similarly, Aboriginal children and young people were present but in a lower than usual proportion of the average daily population.

### Diagram 1: Integrating Visiting and Inspection functions

This diagram shows quarterly activity phases for the TCV’s Inspection and Visiting Functions under s.14(b) and s.14(a) of the Act for an 18-month period. Advocacy, promotion of detainees’ best interests and advisory functions complement these activities (sections 14(d), (c) and (e) respectively).

In this rolling model, an Inspection may occur at set or variable intervals. (In this example, it is shown in Quarter 4).



### 1.3.2 Complementing OPCAT

The Pilot Inspection model was developed to be compatible with processes that may be required of a National Preventive Mechanism (NPM) established to implement the *Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment* (OPCAT).

The imminent implementation of OPCAT in South Australia, which will include oversight of detention in the AYTC, means that the next inspection (possibly in 2021) is likely to require consistency with a nationally agreed set of standards. The TCV will defer the finalisation of core inspection standards and indicators for the next inspection until there is clarity about a national approach.

### 1.3.3 TCV program development since 2017

The Pilot Inspection was the culmination of a two-year process to establish the TCV Program. After the Act was proclaimed in 2016 and the TCV was formally appointed by the Governor, the following key events occurred:

- ▶ *November 2017*—the Principal Advocate position is filled and program planning starts
- ▶ *December 2017*—start of formal individual advocacy and informal AYTC visiting
- ▶ *February 2018*—the Advocate position is filled and structured visiting commences
- ▶ *May/June 2018*—formal consultation with detainees to inform TCV Program design
- ▶ *May 2018*—start of the part-time Principal Policy Officer position
- ▶ *July to September 2018*—the Pilot TCV Visiting Program and associated Review of Records (visiting and records review then recur in quarterly cycles)
- ▶ *November 2019*—Pilot Inspection of the AYTC
- ▶ *Mid-2020*—the *Pilot Inspection Report* is finalised for Parliament.

The following public reports were provided to Parliament in this establishment phase and are available on the Office of the Guardian for Children and Young People website through this link: <http://www.gcyp.sa.gov.au/the-training-centre-visitor/training-centre-visitor-publications>

- ▶ *Training Centre Visitor Annual Report 2017–2018*
- ▶ *Report on Pilot Visiting Program and Review of Records for the Adelaide Youth Training Centre 2018* (February 2019)
- ▶ *Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention from the Report on Government Services 2019* (April 2019)
- ▶ *Visiting Program and Review of Records: Adelaide Youth Training Centre, for Term 4, 2018* (August 2019)
- ▶ *Training Centre Visitor Annual Report 2018–2019*
- ▶ *Visiting Program and Review of Records: Adelaide Youth Training Centre, Term 1 2019* (October 2019)
- ▶ *A PERFECT STORM? Dual status children and young people in South Australia's child protection and youth justice systems - Report 1* (November 2019)

## 1.4 The AYTC detention model

### 1.4.1 The AYTC approach

Assuming that rehabilitation as described in s.3(1)(e) of the Act is the main focus of youth justice in South Australia<sup>33</sup>, we put the following question to DHS:

*For youths who offend against the criminal law, how does DHS/AYTC secure the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential?*

<sup>33</sup> Previously cited, Ombudsman SA. (November 2019, para. 802)

In asking this question, we wanted to understand the specific mechanisms that are implemented by DHS and AYTC to promote rehabilitation and reintegration of detainees, as detailed in the objects and guiding principles of the Act, specifically in s.3(1)(e). The duties of the Chief Executive of the Department of Human Services, set out in s.21(3) of the Act<sup>34</sup>, are also relevant in this context.

Consideration of the DHS feedback to this question influenced the conduct of the inspection and our analysis of its outcomes.

The DHS response, which can be read in full in Attachment 5, had five main elements:

- ▶ “The AYTC has been designed recognising the rights of the child”, with services available to detainees that include access to health and mental health professionals.
- ▶ There is “an emphasis on community reintegration within a safe and secure environment that reflects community norms, values and expectations” (with the on-site Youth Education Centre (YEC) providing “a modern educational environment” and the Health Centre providing “access to high quality health care”).
- ▶ “The service delivery model ensures coordination and delivery of assessment and planning for treatment and intervention with residents.”
- ▶ It includes a description of the way admission and induction processes seek to explain detainees’ rights and associated support/advocacy mechanisms
- ▶ It introduces the purpose of the AYTC Behaviour Support Framework (BSF)<sup>35</sup>

Various sections of this current report explore what the Inspection revealed about the practical application and effectiveness of these commitments.

An underlying theme, reinforced through the Inspection, was the ongoing tension between what is predominantly a security/custodial approach in the

AYTC and the rehabilitative and reintegrative model, envisaged and required by the Act.

*Recommendation 1 responds to these issues*

*Recommendation 2 responds to these issues*

This imbalance in focus is well illustrated by role descriptions for AYTC operational staff. It is notable that the role descriptions for the OPS Youth Worker staffing stream, staff who probably have more direct contact with detained children and young people in crisis than any others at the AYTC, make no mention of experience or training in relation to trauma. This is a skill that could be expressed as a qualification, or at least as a competency or capability. At the OPS3 Youth Worker (supervisory) level, specified duties include “counselling”, but there is no stipulation for an *essential* or *desirable* qualification, or even demonstrable *experience*, to undertake this skilled task.

#### 1.4.2 Presumed guilty?

Most children and young people detained in the Centre are on remand. During an interview, one young person remarked that he was detained “for things I didn’t do” and said, “I don’t get how remand works; I didn’t do what they accused me of”, he was indignant about being subject to what he saw as oppressive conditions within the Centre.

This criticism goes to the heart of a detention model that does not differentiate between the charged and the convicted and treats those who should be presumed innocent the same as those who have been found guilty<sup>36</sup>. In fact, being on remand sometimes attracts harsher conditions, such as more limited access to off-site leave and access to fewer programs.

34 Youth Justice Administration Act 2016 (SA), s.21(3):

The Chief Executive must ensure that adequate arrangements are in place in a training centre—

(a) to maintain the physical, psychological and emotional wellbeing of the residents of the centre; and  
 (b) to promote the social, cultural, educational and vocational development of the residents of the centre; and  
 (c) to maintain discipline and order among the residents of the centre; and  
 (d) to ensure, through the implementation of operational procedures, the proper security, control and management of the centre; and  
 (e) for the keeping of proper records relating to the operation and management of the centre; and  
 (f) for the good management of the centre.

35 The Behaviour Support Framework is the behavior support and incentive program used at the AYTC. It ranges from Phase 1 for all newly admitted detainees to Phase 3 (the highest phase possible).

36 This appears to be a violation of Article 17 of the Havana Rules, which includes the sentence “Untried detainees should be separated from convicted juveniles.”

Most detainees are not charged with or sentenced in relation to violent offences; they are young citizens who notionally should be presumed innocent under our system until such time that they may be convicted. This is not how it works in practice. A comment by the Australian Law Reform Commission (ALRC) highlights the consequences of not taking this approach:

*Being remanded in detention can have serious consequences for accused children. Children report feeling isolated and frustrated by the experience, particularly as they often do not have access to the same programs as detainees serving a sentence. In addition, placing a child on remand can put stress on family relationships and disrupts the child's education. Young people on remand feel that they are often treated as if they have already been found guilty.*<sup>37</sup>

The ALRC also made the point that “chronic welfare problems should not have to be solved by placing young people on remand”.<sup>38</sup>

Relevant international conventions are clear about the need to differentiate between types of detainees. The most important reference in this context is Article 37(b) of the UN Convention on the Rights of the Child, which is reiterated in Articles 13.1 and 19.1 of the Beijing Rules:

*13.1 Detention pending trial shall be used only as a measure of last resort and for the shortest possible period of time; and*

*19.1 The placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period;*<sup>39</sup>

It is doubtful that remand in this State is “used only as a measure of last resort and for the shortest appropriate period of time”.

Article 17 of the Havana Rules provides instruction about requirements in this area:

*17. Juveniles who are detained under arrest or awaiting trial (“untried”) are presumed innocent and shall be treated as such. Detention before trial shall be avoided to the extent possible and limited to exceptional circumstances. Therefore, all efforts shall be made to apply alternative measures. When preventive detention is nevertheless used, juvenile courts and investigative bodies shall give the highest priority to the most expeditious processing of such cases to ensure the shortest possible duration of detention. Untried detainees should be separated from convicted juveniles.*<sup>40</sup>

This requires attention, especially in those cases where children and young people are being held on remand because of a lack of appropriate alternative placement and support options in the community able to address highly complex individual needs. In fact, AYTC often has little capacity to address many of these needs. A recent research report highlighted that detained children and young people often have “extensive and extremely complex needs, including substance abuse problems, physical and mental health problems, Foetal Alcohol Spectrum Disorder, disengagement from education, complex family issues and/or cognitive dysfunction”.<sup>41</sup>

The AYTC detention model is primarily designed to manage risk, with the usual default option appearing to be developed for worst-case scenarios involving high-risk detainees.

37 Australian Law Reform Commission. (2010). *Children in the legal process* (ALRC Report 84, para. 18, p. 171). Australian Government. <https://www.alrc.gov.au/publication/seen-and-heard-priority-for-children-in-the-legal-process-alrc-report-84/18-childrens-involvement-in-criminal-justice-processes/bail-and-remand/>

38 Similar issues were noted in a recent British report: Gibbs, P., & Ratcliffe, F. (December 2018). *Path of little resistance: Is pre-trial detention of children really a last resort?*

[http://www.transformjustice.org.uk/wp-content/uploads/2018/12/TJ-December-2018-PRINT\\_V2-December.pdf](http://www.transformjustice.org.uk/wp-content/uploads/2018/12/TJ-December-2018-PRINT_V2-December.pdf)

39 Office of the High Commissioner for Human Rights. (1990). *United Nations standard minimum rules for the administration of juvenile justice (Beijing Rules 1980)*. <https://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf>

40 Office of the High Commissioner for Human Rights. (1990). *United Nations rules for the protection of juveniles deprived of their liberty (Havana Rules 1990)*. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/JuvenilesDeprivedOfLiberty.aspx>

41 Richards, K. & Renshaw, L. (2013). *Bail and remand for young people in Australia: A national research project*. Australian Institute of Criminology, p. 98.

As part of the 2019 Pilot Inspection process, the following question was put to DHS, with the full answer available under question 12 in *Attachment 5*.

*How do DHS policies and processes and the operational management of the AYTC differentiate between residents who are on remand and those under sentence?*

The DHS answer was that “[i]n accordance with Youth Justice policy, case management is provided for clients as they move between community and custody and across different order types. Continuity across mandates and community/custodial settings is critical to effective case management.” For those on remand DHS stated, “the case plan is prepared from identified areas of need determined from the assessment process, which is compiled from a variety of departmental information, the young person and their family and/ or significant stakeholders”. Young people on remand and those who have been sentenced are subject to the same regime within the centre. Young people on multiple short term remands do not then gain the benefit of uninterrupted case management.

The care, treatment and control of all detainees is thus determined largely by a one-size-fits-all standard that is more appropriate for sentenced offenders. This is simpler and presumably less costly but it prioritises the system’s needs over the particular needs of detainees on remand, for whom it may be more onerous than necessary.

The DHS response also sets out operational interventions for “residents on remand (and pre-court police custody authorities)”, including that those on remand are “subject to more stringent observation requirements in accordance with [AYTC] Operational Order 29—Resident Safety Risk Assessment and ACT Plan”. It notes that they are also “screened on admission and every return from court to ensure immediate physical and mental health needs are met and that they are connected to services they require for ongoing care and support”.

### 1.4.3 Programs and rehabilitation

In December 2019 DHS offered the following statement regarding programs available to detainees at the AYTC:

*DHS Youth Justice acknowledges that improvements can be made in relation to the provision of programs and activities at the AYTC and that this is an ongoing priority.*

The Pilot Inspection did not focus on programs (which had been subject to regular scrutiny as part of the TCV’s Visiting Program) but concentrated instead on particular areas such as the availability of cultural support to Aboriginal and other detainees<sup>42</sup>. Limitations relating to programs and activities (with neither term being clearly differentiated by AYTC) had been noted in TCV Visiting Reports during the preceding 12 months.

Over that time, young people and staff consistently identified the lack of supports, programs and community input for Aboriginal children and young people within the Centre, who comprised 62.9% of the average daily population of the AYTC in 2018-19.<sup>43</sup> This issue bears upon the extent to which the *Aboriginal and Torres Strait Islander Youth Justice Principles* are upheld.

The table on the following page shows participation in programs specifically made available to Aboriginal children and young people at the AYTC in Terms Two and Three in 2019. Attendance is low considering the number of Aboriginal detainees.

Two statements made by AYTC staff members during interviews speak to the practical implications of program deficiencies on the lives of the children and young people in detention:

- ▶ Detainees “get bored”, especially in holiday periods where, it was stated, the same things are offered time and again. “No wonder they ‘act out’: we get bored; why wouldn’t the residents?”. An interviewed detainee also specifically wanted access to weekend programs to help address boredom.
- ▶ “They’re so talented. There needs to be more sports, arts, dance—but they put a stop to it.”

<sup>42</sup> As discussed in Part 6.4 below.

<sup>43</sup> Productivity Commission. (2020). *Report on government services 2020*. (Part F, Chapter 17 Youth Justice Services, Table 17A.5). Australian Government. <https://www.pc.gov.au/research/ongoing/report-on-government-services/2020/how-to-RoGS-traditional-2020.pdf>

Program	Term	Number of sessions at Goldsborough Road	Number of sessions at Jonal Drive	Average number of attendees
Yarning Circle (young men only)	2	8	3	3.5
Journey to Respect (young men only)	2	9	-	3.2
Yarning Circle (young men only)	3	7	7	3.5
Women's Business (young women only)	3	-	3	3.5
Journey to Respect (young men only)	3	5	-	3
Reconciliation Week Speaker: Uncle Michael O'Brien	May			
NAIDOC football match	July			

Asked whether programs were available to assist detainee rehabilitation, another staff member responded "Absolutely not," proceeding to describe past programs that may have done this but were no longer available: "Scared Straight"; talks by victims of crime who explain how they were affected; and "Seeing Red" for anger management (a topic some detainees say they want). Another staff member suggested that rehabilitation opportunities would be enhanced if detainees received incentives for participation in therapy or group programs, as there is currently no consequence or reward for such engagement.

*Recommendation 7 responds to these issues*

#### 1.4.4 Implications of the 2019 campus consolidation – 'Dynamic Model'

Under the new campus consolidation, called the Dynamic Model, detainees from the Jonal campus (girls and young women from 10 to 18 and boys 10 to 14) were moved to join the larger group at the Goldsborough campus a few weeks before the on-site Inspection. This new model created immediate and longer-term issues and influenced the input of both detainees and staff during the Inspection.

Several of the older Goldsborough detainees expressed their concern that "the younger boys cause more lockdowns" (due to unsettled behaviour) that affect the whole Centre.<sup>44</sup> This complaint was echoed by recent arrivals from Jonal, with one saying, "That's another thing about here: we have too many lockdowns."

Staff expressed a relatively common view about the immediate (i.e., recent and current) impact of the model on detainees:<sup>45</sup> that it was negative "across the board" and meant fewer opportunities for

<sup>44</sup> Lockdown of one unit due to an incident results in all units being in lockdown for a period.  
<sup>45</sup> We did not seek views about the longer-term efficacy of a one-campus model.



certain groups. One example was that of two young boys who, while eligible to go to school, could not attend for several days because unit operational requirements meant that staff could not be released to escort them.

A unit-based staff member said the consolidation at Goldsborough meant that the unit's workload had doubled in an environment in which there is "a push to save money" and "to cut" resources. One impact was that "we can't get kids out of rooms" due to roster restrictions, exacerbated when staff need to be released to facilitate movements across the facility. There were also practical problems caused by more restricted access to usable spaces, especially those needed to protect privacy and confidentiality (e.g., to host meetings between detainees and professional visitors). This issue is also raised in part 6.12 below in relation to education. At least one detainee thought that Goldsborough had an advantage in that "Jonal didn't have so many things to do."

*Recommendation 4 responds to these issues*

#### 1.4.5 Safety/Child safe standards

DHS advised that it implements the national principles for child safe organisations, "aligning what is already in place in South Australia through the Child Safe Environments (CSE) Framework. Responsibility for CSE transferred to the Department of Human Services (DHS) through Machinery of Government Changes that occurred in 2019."<sup>46</sup> DHS affirmed that "policies and procedures in DHS Youth Justice are consistent with the standards", noting, for example, that the CSE Standard 'People working with children are suitable and supported', is met by requiring all staff to undergo background screening and a psychological assessment before starting work at the AYTJ and complete CSE training. In addition, DHS staff are mandated notifiers.

Discussion at the Education Focus Group, convened during the Inspection with on-site staff of the YEC (see Part 6.12 below), referred to some young people who "say that they feel safer here than out in the community", while for others, it "often depends on who they're with ... they may feel more or less safe depending on what other residents and staff are around." A participant in the Health Focus Group, convened with on-site SA Health staff, made a related comment that, "I've never heard a young person say they don't feel safe." However, they drew an important distinction with respect to detainees feeling "emotionally safe", stating, "Absolutely not: they're locked in rooms, can't call family. Suffering mental health or trauma."

<sup>46</sup> DHS has undertaken further work in relation to the CSE Framework since the inspection.

One detainee linked their sense of safety with the capacity to seek TCVU support:

*I know if I don't like a decision, I always have the option to ring up the Guardian<sup>47</sup> on a weekday. I would also like that option on weekends. In the week, if something stresses me out, I know I can always ring you up to 5 pm. On weekends that is not an option and that makes me feel unsafe.*

AYTC staff members raised other safety matters:

- ▶ Asked whether rostering was a safety issue, one said, "Yes ... because if you lock down residents, they're more likely to self-harm or explode".
- ▶ Detainees' access to knives in the kitchen was mentioned several times. Despite some adjustments (e.g., the sharp points being cut off), some staff perceived this as an inherent risk. We were advised that staff representatives and the Union (Public Service Association) had raised this issue in relation to the Work Health and

Safety Act 2012 (SA) but some staff expressed frustration about a lack of action to take up some practical suggestions (such as knives being attached securely to a wall or bench by a strong wire). As nothing had happened, the comment was made that staff "feel expendable".

Important aspects of 'safety' are canvassed in specific contexts in other sections of this report, for example under Theme 7 in Part 4 (detainee views), Part 6.3.6 (bullying) and Part 6.7 (sexual orientation, gender identity and gender expression). The associated concepts of cultural safety (Parts 6.4 and 6.5) and psychological safety (Part 6.11.6) also need to be considered.

ART WORK CREATED  
BY YOUNG PEOPLE  
FOR THE INSPECTION



<sup>47</sup> Due to their prior and/or current experience in the child protection system, detainees often know Penny Wright in her capacity as Guardian for Children and Young People and carry this naming over to the Training Centre Visitor context.

## 2. KEY FINDINGS/RECOMMENDATION

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### 2.1 Standards and Indicators

As this is a point-in-time report, some of the concerns identified have been or are being addressed by DHS/AYTC in whole or part. The next TCV Annual Report (September 2020) will reconcile the inspection report findings with constructive action taken since that time.

#### 2.1.1 Overview

The TCV Program's integrated model allowed for targeted Pilot Inspection standards (with associated indicators) based on the Act and influenced by the *Charter of Rights for Youths Detained in Detention Centres* (the Charter) and the *Aboriginal and Torres Strait Islander Youth Justice Principle*. The standards also drew on learning from the Visiting Program and Reviews of Records.

The TCVU developed an approach that identified the rights of young detainees as falling within three categories: conditions; access to programs and services; and core human rights.<sup>48</sup>

The 10 standards applied during the Pilot Inspection variously reflected the three categories.

1. Residents are safe.
2. Residents are treated with respect and dignity.
3. On admission, residents' educational, health and psychosocial needs are screened and assessed, and they are provided with immediate information about their rights and responsibilities.
4. The AYTC supports the identity and values of residents, including with respect to cultural, spiritual/religious and ethical life domains.
5. The individual cultural identity of Aboriginal and Torres Strait Islander residents is recognised, and their beliefs and practices are supported, respected and upheld.
6. Residents receive appropriate health care services.

7. Restrictive, disciplinary or intrusive practices are used only when no alternative method is available and with due regard for residents' individual characteristics and right to privacy.
8. Education and training opportunities are accessible and reflect the aspirations of individual residents.
9. All residents participate in case planning and have a comprehensive case plan.
10. Residents access and value transparent grievance processes.

The 10 standards responded to significant rights of children and young people while addressing youth justice detention policy and practice as applied in the AYTC. They represent a balance of two considerations: it was not feasible to examine an *extensive* list of standards with the resources available and it was not feasible to examine individual standards intensively or comprehensively.

Discussions with DHS/AYTC contributed to their final form and how they were applied on-site to minimise disruption to detainees, staff and ongoing AYTC operations.

For Pilot Inspection reporting purposes, the Inspection Team relied on material derived from the Visiting Program and previous Reviews of Records as well as from information acquired during the on-site inspection.

An assessment was made about each indicator, and ultimately each standard, along a continuum ranging from *needs attention* through *passable* to *on track*. In keeping with a pilot process, we have sought to draw broad conclusions while testing an inspection design and methodology and gathering insights for future inspections.

<sup>48</sup> As reported and contextualised in Furness, M. (March 2019). *Developing the Training Centre Visitor Program: A rights-based approach to oversight responsibilities*. Yellowscope Advisory, Consultancy and Management Services (not published)

Needs attention

Passable

On track

*Needs attention* suggests that something should be done immediately to address concerns raised through the Inspection about that standard/indicator.

*Passable* means that there are some concerns but they do not necessarily need immediate or prioritised attention.

*On track* suggests that the relevant standard/indicator was being addressed appropriately at the time of the Pilot Inspection.

Discussion below primarily refers to the terms of specific standards and indicators. Substantive issues are also discussed in more detail in other parts of this report.

The indicators associated with each of the 10 standards are listed in Attachment 3.

The imminent implementation of OPCAT in South Australia, which will include oversight of detention in the AYTC, means that the next Inspection (possibly in 2021) is likely to require consistency with a set of nationally agreed standards (see Part 1.3.2 above) The TCV has deferred the finalisation of core inspection standards and indicators for youth justice detention in South Australia until there is clarity about the implications of a national approach.

## 2.1.2 Summary of findings for each standard

### ***Standard 1: Residents are safe.***

The Pilot Inspection led to the conclusion that the AYTC was *passable* or *on track* with respect to important elements of detainee safety, in a physical sense. However, as discussed elsewhere in this report, the term *safety* can be read in a broader sense, which would necessarily also include conditions for emotional and psychological safety, which *need attention*. Below are the main points in relation to Standard 1:

- ▶ Detainees broadly indicated that they feel *physically* safe in the Centre (Indicator 1.1).

- ▶ The Centre usually provides a physically safe environment (although it was not possible to assess properly whether it performs optimally with respect to broader *Child Safe Standards* considerations) (Indicator 1.4).
- ▶ Staff did not report that they are trained and resourced to work safely with detainees, particularly those with complex needs (Indicator 1.6).
- ▶ We did not find that the Centre substantially meets its responsibilities with respect to:
  - implementing effective anti-bullying strategies (Indicator 1.2);
  - providing special care and attention for detainees with special needs or other vulnerabilities (Indicator 1.3);
  - supporting detainees to make, maintain and/or restore relationships within the AYTC (Indicator 1.5).

We concluded that, while the detained children and young people broadly felt physically safe at the AYTC, there was less evidence regarding their emotional and psychosocial safety (a key element of a child safe environment – see Part 1.4.5 above) and this area *needs attention*. Several staff expressed strong views that were consistent with this assessment in interviews.

### ***Standard 2: Residents are treated with respect and dignity.***

The Pilot Inspection indicated that the AYTC was *passable* in relation to whether detainees are treated with respect and dignity. We considered this standard in the context of the care, treatment and control of detainees.

As there are strong subjective elements inherent in a perception that one is being treated with respect, the Pilot Inspection placed the views of detainees at the centre of this particular assessment, supplemented by the opinions of staff and DHS management.

Detainees described various examples of respectful treatment and interactions and spoke highly of some staff (as can be seen in Attachment 2 to this report) However, both children and young people and staff also raised concerns about the actions and attitudes of some individuals, and some expressed the view that the AYTC is an environment that did not always recognise or address those concerns effectively. Some of the strongest of these views were from people who work at the AYTC.

Of the seven indicators examined for this standard, several matters can be noted:

- ▶ Neither detainees nor staff indicated that the Centre *substantially* achieves the goal of treating detainees with respect and dignity. While this does not mean that the AYTC intentionally or systematically operates to disrespect detainees or to treat them in an undignified way, it was clear that work is needed to improve in areas such as equitable and fair treatment for all detainees (Indicators 2.2, 2.3 and 2.4), compliance with the Youth Justice Charter (Indicator 2.5) and the realities of being housed in a prison-like environment (Indicator 2.6).
- ▶ While detainees understand the use of incentives (and hence disincentives) as part of the Behaviour Support Framework BSF, they do not particularly value the scheme (Indicator 2.7).

***Standard 3: On admission, residents' educational, health and psychosocial needs are screened and assessed, and they are provided with immediate information about their rights and responsibilities.***

The Pilot Inspection suggested that the AYTC was *passable* to *on track* with respect to the screening and assessment matters addressed by this standard.

Standard 3 focused on AYTC policy and practice at the admissions and assessment phase of a detainee's detention experience. An AYTC staff member took two members of the Inspection team through a mock admission to assist our understanding of the process.

In relation to six indicators, we noted the following:

- ▶ Overall, detainees were not confident that they had received written and verbal explanations of AYTC and unit rules (including consequences for non-compliance) or information about the *Youth Justice Charter* in language they can understand (Indicator 3.1), or information about the TCV (Indicator 3.2). Individual comments varied widely about these factors but anticipated collaboration between AYTC and the TCV in 2020 is likely to develop better understanding in relation to these areas.
- ▶ It is not possible to say that admission assessments have adequate regard to the needs of detainees in relation to medical, psychological and psychiatric treatment (Indicator 3.4), nor that the psychosocial needs of residents are screened for and assessed as soon as practicable following admission (Indicator 3.5).

While detainees' physical needs may be identified early (Indicator 3.6) it is not possible to say that other needs are identified and adequately addressed for individual detainees. This is particularly the case in relation to the disability-related and/or psychosocial needs of detainees who are also under guardianship (child protection) orders (ie, 'dual-status') and/or Aboriginal children and young people.

- ▶ Regarding education, it can broadly be said that the assessment phase, despite practical difficulties at times, is usually completed successfully (Indicator 3.3). Standard 8 looks more broadly at education. Assessment and planning for education (and training) is discussed in more detail in Part 6.12 of this report.

***Standard 4: The AYTC supports the identity and values of residents, including with respect to cultural, spiritual/religious and ethical life domains.***

Standard 4 deals with broader cultural, spiritual/religious and ethical life domain considerations (while the experience of Aboriginal children and young people is dealt with under Standard 5.)

This area *needs attention*. The AYTC should improve its responsiveness to, and support for, detainees and their access to entitlements in this sphere (Indicators 4.1 and 4.2).

We note the following:

- ▶ There are serious limitations to detainees' access to participation in practices and activities inside and outside the AYTC that reflect their values (Indicator 4.3) and, in some cases, their engagement in discussions about what their needs might be<sup>49</sup>. Various reasons can be suggested for this situation, but it is difficult to avoid concluding that a lack of resources is at the heart of the problem, given that policy settings and stated intentions are favourable to constructive responsiveness in this area.
- ▶ When asked, detainees generally did not report that they have access to personally appropriate religious/spiritual or other advisors or representatives (Indicator 4.4). This has been an area in which TCVU advocacy has made a difference at times, but there appear to be ongoing issues with respect to securing reasonable support, especially for detainees for whom English is not a feasible or suitable language of communication.
- ▶ Detainees broadly appear to be provided with food that complies with their identity and values (Indicator 4.6).

***Standard 5: The individual cultural identity of Aboriginal and Torres Strait Islander residents is recognised, and their beliefs and practices are supported, respected and upheld.***

Over the 12 months preceding the Pilot Inspection TCV Visiting Reports drew attention to serious concerns about cultural support for Aboriginal residents of the AYTC. The Inspection substantiated these concerns. At the time of the Pilot Inspection the AYTC did not achieve the cultural referral and reporting required in legislation and operational orders (Indicator 5.6). This area needs attention.

These are our main observations in relation to standard 5, noting that particular issues are discussed in more detail elsewhere in this report:

- ▶ Aboriginal children and young people did not have access to cultural programs and activities that have regard to their age, gender, maturity and individual cultural journey (Indicator 5.1).
- ▶ We did not find evidence that individual cultural support plans are usually developed in conjunction with Aboriginal and Torres Strait Islander detainees and their identified family or community members (Indicator 5.2).
- ▶ Staff do have access to some cultural training and often demonstrate culturally respectful engagement. However, we were made aware of some specific incidents and concerns, including in relation to the broader AYTC cultural environment, that the TCV has raised with DHS and AYTC management. Staff participation in cultural training and respectful engagement are areas in which improvements should be made, as was noted in discussion with DHS managers (Indicator 5.3).

Importantly, in the course of interviews, several staff explicitly expressed an interest in undertaking more professional development and critical engagement in this sphere

- ▶ The goal of recruiting and retaining more Aboriginal (and other culturally diverse) staff was universally endorsed (Indicator 5.4).
- ▶ Aboriginal children and young people do not have access to a culturally safe space to engage with family, community and support services (Indicator 5.5).<sup>50</sup>

<sup>49</sup> We have observed that if a cultural matter is pursued by the AYTC, including in response to formal advocacy by the TCVU on behalf of a young person, it may be pursued as a bilateral matter between the Centre and an outside expert/advisor. This was the case in some matters raised by detainees of Islamic faith where the young person became the passive recipient of a response determined in a dialogue which did not include them.

<sup>50</sup> This matter is expected to be addressed by work under the Youth Justice State Plan (June 2020).

The absence of supporting evidence for most of these indicators casts doubt on the AYTC's observation of the *Aboriginal Youth Justice Principle* as required by s.3(3) of the *Youth Justice Administration Act 2016 (SA)*.

***Standard 6: Residents receive appropriate health care services.***

The provision of physical and mental health care services is discussed in some detail in various parts of this report, with different elements seen to be either *passable* or *on track*.

It can be noted that detainees overwhelmingly value their interactions with health services and related staff. Of the six indicators, we note the following:

- ▶ In principle, on- and off-site detainee health assessment and treatment are operational priorities (Indicator 6.1) and staff and managers are personally committed. However, it is not clear that adequate arrangements are in place to give effect to this intention (and obligation).
- ▶ Detainees do not always have access to regular psychiatric reviews and treatment in a consistent therapeutic environment (Indicator 6.2). (This concern echoes a broader concern that detainees do not have access to rooms that provide a consistent, confidential environment.)
- ▶ Most detainees were satisfied with the range and responsiveness of dental services (Indicator 6.3) although some individuals mentioned some specific concerns, mainly about waiting times.

It is not clear whether the primary purpose of the health service response is to ensure and maintain fitness for custody or if the service has the capacity to prepare, plan and respond to the higher level health needs of young people including long standing, non-urgent health needs.

- ▶ Staff and detainees raised important issues about whether detainee health has been impaired since detainees entered custody (Indicator 6.4). These are discussed in relevant sections of this report. Overall, it is not possible to make a simple finding about Indicator 6.4, as the term *health* encompasses both physical and mental

aspects. Generally speaking, detainees reported an improvement in their physical health while in detention. However, their sense of *wellbeing* was affected by factors such as disability, a dependence on illicit drugs and alcohol, relationships with other detainees and staff, the training centre environment and their sense of safety. These factors are considered elsewhere in this report.

- ▶ Access to essential on-site health care services (and even determining what can be described as such) is a major issue (Indicator 6.5). The Pilot Inspection and preceding TCVU work suggest that there should be, at least, better access to on-site health professionals after hours and on weekends.

***Standard 7: Restrictive, disciplinary or intrusive practices are used only when no alternative method is available and with due regard for residents' individual characteristics and right to privacy.***

Performance against this standard *needs attention*. The Pilot Inspection finding is that the AYTC does not *only* use restrictive, disciplinary or intrusive practices when no alternative method is available, nor does it have due regard for detainees' individual characteristics and right to privacy. This finding applies to the following:

- ▶ Indicator 7.1—that residents be confined to safe rooms for the shortest period possible and in accordance with statutory requirements;
- ▶ Indicator 7.2—that restraint is used as a method of last resort and never applied as punishment;
- ▶ Indicator 7.3—that resident feedback is (always and effectively) sought following the application of any restrictive or disciplinary practice;
- ▶ Indicator 7.4—that residents are informed about their right to privacy, including in relation to CCTV coverage of bedrooms and toilets/showers and the application of semi-naked search processes.

With respect to Indicator 7.4, it is clear that the AYTC does conduct semi-naked searches of children

and young people as routine practice and, at times, without due regard for individual characteristics.

Previous TCV reports and discussion in the current report go into these matters in some detail. It is worth noting that the issues most often raised, specifically, by detainees, are isolation and the impact of being alone, and privacy in relation to CCTV and semi-naked searches (particularly by the young women). Detainees have a real need for dignity.

Detainees' awareness of their right *not* to be subjected to inappropriate practices needs to be strengthened. This is an area in which policy development and practice could be informed by more effective use of the Resident Incident Comments (RIC) process to elicit their real-time views about potentially problematic practices and thereby provide better information to the Incident Review Committee (IRC).

***Standard 8: Education and training opportunities are accessible and reflect the aspirations of individual residents.***

The role of the YEC is discussed elsewhere in this report but overall it is clear that most detainees value participation in education and often remark on the importance of that experience within the Centre and their valuable relationships with YEC staff. Provision of education and training at AYTC ranges from *passable to being on track*.

We make the following observations about the five indicators applied during the Pilot Inspection:

- ▶ Detainees' right to participate in education (and/or training) is not always supported by AYTC or YEC operational requirements (Indicator 8.4). Detainees are commonly precluded from attendance due to non-educational matters associated with factors such as AYTC operational staffing ratios and absenteeism.
- ▶ Not all detainees report that they have access to education and training opportunities that meet their aspirations (Indicator 8.1), nor is it clear that education and training opportunities necessarily respond to the needs of the individual (Indicator

8.2). This latter issue was exacerbated by the recent campus consolidation and the effect this had on opportunities for girls and young women, as well as on detainees who do not have English as a first language (or at all).

- ▶ Detainees do not have equitable access to education and training opportunities that would likely be available to them in the outside community (notwithstanding that some detainees do not attend school on the "outside"). Other limiting factors include site location (i.e., whether they are at Jonal or Goldsborough) and the gender of the student (in relation, for example, to curriculum options) (Indicator 8.3).
- ▶ Transition between pre- and post-detention education and training (Indicator 8.5) is a complex matter. Most stakeholders recognise the importance of this transition. We were provided with some information illustrating good practices in specific circumstances but preparation for life outside the Centre goes well beyond the area of education.

***Standard 9: All residents participate in case planning and have a comprehensive case plan.***

The development and application of case plans (and associated processes) is an enormous area for consideration. This was limited to specific topics for the purpose of this Pilot Inspection. In this context, the Centre was seen to be broadly *on track*. The following comments relate solely to the targeted indicators:

- ▶ On one hand, relevant staff said that detainees' views inform screening, assessment or case planning processes (and are integral to the case coordination role). On the other hand, detainees were not always sure this is the case (Indicator 9.1). Similarly, while detainees may participate in case conferences and/or plan reviews (Indicator 9.2), both detainees and other staff made some critical comments about the meaningfulness of such experiences. Not all reported having a copy of their case plan.
- ▶ In response to indicator 9.3, professionals reported that all children and young people have

a case plan appropriate to their mandate status. However, AYTC is a complex environment in which detainees may be detained for anything from a few days to several years across single or multiple admissions. It will be helpful to consider how case planning can be improved, particularly for those who are remanded on a recurrent basis, sometimes presenting dozens of times over many years.

- ▶ It was not clear whether and how the dual care plans of detained children and young people (i.e. those who are also on child protection orders) are implemented in a congruent manner. Detainees who are also on child protection orders rely on effective case management that is coordinated with the DCP, requiring ongoing implementation of their DCP case plan while in custody (Indicator 9.4 and see Part 6.10 below). Most of this cohort live in residential care when in the community and their need for effective case management can be particularly acute. It appears that some staff at the Centre do not have information about their status or their particular needs. This issue is discussed in some detail in Part 6.10 below.

**Standard 10: Residents access and value transparent grievance processes.**

Prior to the Pilot Inspection, TCV Visiting Reports had raised concerns about the need to provide detainees with a fair and timely grievance process<sup>51</sup> (Indicator 10.1) and advocated for grievance processes that are transparent, accessible and responsive to detainees' needs (Indicator 10.2). Not unexpectedly, the inspection confirmed that this area *needs attention*.<sup>52</sup>

Indicator 10.5 tested whether detainees are obstructed in their right to access independent complaint processes or those involving external visitors and agencies. This resulted in a relatively positive assessment. Although there were some examples where detainees did not get access as easily or quickly as they should have, they normally had direct recourse to these processes. It is positive

to observe that staff usually ensure this access occurs expeditiously and they understand why a detainee's right to have access is a core principle of the detention environment.

The AYTC could not establish that their current arrangements enabled an adequate response to complaints about systemic or operational issues that were raised in the context of individual or group grievances (Indicator 10.3). It was also not possible to establish that, in addition to formal grievance processes, detainees had access to and valued a range of other feedback opportunities (Indicator 10.4).<sup>53</sup>

## 2.2 Implications of the inspection for the future TCV Program

We designed the 2019 Pilot Inspection to meet the requirements of the Act and to identify the necessary factors for a credible inspection program into the future. The pilot was focused on limited standards and indicators and adopted a methodology that reflected the resources available.

### 2.2.1 Four Factors

Our conclusion is that four major factors will determine how the TCV will deliver its program of functions, including the Inspection function, in the future:

- ▶ an integrated inspection model;
- ▶ an emphasis on engagement;
- ▶ standards and methodology to complement OPCAT requirements;
- ▶ the capacity to implement

### An Integrated Inspection Model

The Pilot Inspection affirmed the value of the TCV Program's integrated inspection model. This approach offered practical benefits such as the effective use of TCV staff resources, the opportunity to benefit from existing trust-based relationships

51 For example, in Part 3.2.4 of Training Centre Visitor. (August 2019). *Visiting program and review of records: Adelaide Youth Training Centre, for term 4, 2018*. <http://www.gcyp.sa.gov.au/wp-content/uploads/2019/09/2018-TCV-Term-4-AYTC-Visiting-and-Review-of-Records-Report.pdf>

52 DHS had flagged that something will be done during 2020 to respond to these concerns.

53 Examples of other feedback would be the Youth Advisory Council, Resident Incident Comments

with detained children and young people, and the staging of intensive reviews of documentation throughout the year.

### **An emphasis on engagement**

The Pilot Inspection benefited from significant involvement by the detainees, as well as by individual and groups of staff from diverse work areas. DHS and the AYTC were supportive and facilitated the process well. In the process we have gained some valuable insights.

- ▶ *Children and Young People*— Detainees participated openly and genuinely in the Pilot Inspection and we have tried to capture the breadth and intensity of their contributions in this report. As the principal stakeholders with the most relevant input we prioritised and valued their contributions. To secure their ongoing input into such processes, they must be engaged respectfully and in way that supports their safety and integrity.
- ▶ *DHS/AYTC staff*—Staff views and insights are invaluable. While issues and conversations can be difficult at times, the Inspection team acknowledges the professionalism and passion of many of those involved and their dedication to working in a challenging environment with these children and young people.

A task for the future is to develop ways of involving more staff members in the inspection process. This may be through engagement mechanisms that do not need to be conducted on-site during an intensive inspection event. One approach we considered, but did not pursue due to resource limitations, is targeted, confidential surveying. Developing an appropriate survey tool will require intensive conceptual, collaborative and technical work.

- ▶ *Other workers*— The same broad perspective applies to staff from other government agencies or external organisations who work directly with or in connection with detained children and young people. These include child protection, health and education, and the non-government sector, along with those people whose expertise helps meet the needs and aspirations of specific individuals or groups.

- ▶ *Management/leadership*— In 2019 the TCVU focused on inviting input from DHS and AYTC leadership into the Inspection process. We were fortunate to receive generous support, which was appreciated as AYTC was facing various ongoing challenges as a system in transition. We also worked to secure the views of the management of local service providers in key areas such as health, mental health, education and child protection.

In the future, depending on the focus of an Inspection, it would be desirable to expand this pool and seek input from leadership in other areas. For example, as identified in this Pilot Inspection, the minimal accessibility of drug and alcohol programs to AYTC detainees should be explored.

- ▶ *Community groups*— Information about the Inspection process was offered to a range of groups and key individual stakeholders through various media (with several discussions resulting). However, for pragmatic reasons, it was decided that little more could be done in the lead-up to and implementation of the 2019 pilot. Effective engagement requires time and effort and is heavily contingent on resources.

Respectful and meaningful engagement with Aboriginal community stakeholders has been a particular need and challenge for the TCV Program generally and has been the most problematic area of program development to date, primarily due to staffing constraints. A dedicated TCV Aboriginal Advocate position has been proposed as a core necessary addition to the small TCVU team since its inception, and would take the team from the current 2.5 FTE to 3.5 FTE, but has not been funded, to date.

What has been achieved in this area, especially trust-based relationships with detained Aboriginal children and young people, has mainly been possible because our general TCV Advocate, Travis Thomas, is a respected member of the Aboriginal community (as is Conrad Morris, who has also been able to provide some temporary advocacy and visiting support to the Program, on 'loan' from the GCYP child protection advocacy team).

- ▶ *Academics and other experts*— Various individuals who are interested in youth justice and related areas, work in universities and a range of government and non-government organisations. A robust Inspection program benefits from connection and relationships with these people to maintain an up-to-date understanding of theoretical and practical ideas. There may also be a role for purchasing independent and/or specialist expertise to undertake specific tasks.

Despite limited time and resource capacity, we were fortunate to secure specific contributions and critical input from Dr Simone Deegan, Jodie Evans (Director, Project 18 Wellbeing Collective), Anne Bainbridge (CEO of the Youth Affairs Council of South Australia) and, in early scoping, Miranda Furness (Principal Consultant, Yellowscope).

- ▶ *Oversight and professional networks*— Future Inspection rounds will benefit from information and support gained from better established and properly sustained collaborative networks. With the imminent advent of OPCAT requirements for the oversight of places of detention, this will be critical.

It is necessary also to recognise relevant local and wider networks and collaborators.

### South Australia

Penny Wright holds two other statutory commissions relating to children and young people under court orders<sup>54</sup>, necessitating an internal liaison and collaboration function within her office.

She also operates within a larger community of statutory officers who also have an interest in the circumstances of the children and young people within her mandates. These include the Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People, the Commissioner for Equal Opportunity, the SA Ombudsman, the Independent Commissioner Against Corruption, the Legal Services Commissioner, the Commissioner for Victims' Rights, the Health and Community Services Complaints Commissioner, the Public Advocate and the Chief Psychiatrist.

### National and international

Liaison also occurs with interstate and overseas peers (with New Zealand and Scotland of some importance in the lead up to the 2019 pilot inspection). At a national level dialogue happens with the office of the Commonwealth Ombudsman.

The two main national groups of importance for the TCV's Inspection function are the ANZCCG (made up of Children's Commissioners, Guardians, Advocates and Visitors from all jurisdictions and related officers such as the Children's eSafety Commissioner) and the National Inspector's Network that draws together inspectorates from across the nation's custodial sector.

#### 2.2.2 OPCAT requirements

It is expected that a national set of core standards and indicators, or guidelines, will be developed over the next 12 months as part of the OPCAT National Preventive Mechanism start-up process. The TCV has been involved in discussions within our state and in two national forums, the ANZCCG<sup>55</sup> and the National Inspectors Group (the forum for all custodial inspectors).

We will defer any further design or refinement of the draft standards and indicators applied during the Pilot Inspection until there is clarification of this strategic agenda in 2020/21.

However, we will reflect on experiences from this inspection to consider how we can improve the format and wording, the guidance for participants and what can reasonably be done "on the ground" during an inspection.

#### 2.2.3 A capacity to implement

Under section 13 of the Act, the Minister "must provide the Training Centre Visitor with the staff and other resources that the Visitor reasonably needs for exercising the Visitor's functions."

The TCV Program started with an initial, "establishment budget", which has since continued as the funding model. This was, and continues to be, insufficient to cover essential program costs, as

<sup>54</sup> Guardian for Children and Young People under s.21 of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*, with a mandate for children and young people under the Guardianship of the Chief Executive of the Department for Child Protection, and Child and Young Person's Visitor under s. 117 of the *Children and Young People (Safety) Act 2017*, with a specific mandate for those children and young people under guardianship who live in residential care facilities.

<sup>55</sup> The Australian and New Zealand Children's Commissioners and Guardians Group – Penny Wright participates in this cross-jurisdictional group as TCV but also in her capacity of Guardian for Children and Young People.

previously noted in the TCV's first and second Annual Reports (September 2018 and September 2019):

*The current Training Centre Visitor budget was a preliminary, establishment budget negotiated in 2016 and was never intended or expected to be adequate for the ongoing and effective operation of the position.*

*The implementation of a formal inspection program, a critical function for my role, and a second specialist Advocate position for Aboriginal residents are not funded.... This has implications for my capacity to adequately fulfil the functions of the Training Centre Visitor required of me by the parliament.<sup>56</sup>*

The continuation of an 'establishment budget', despite the endeavour to fully implement the TCV program, had direct implications for the TCV's capacity to undertake the current inspection<sup>57</sup>, and this will be the case in the future.

The 2019 Pilot Inspection was a limited process, restricted to the examination of 10 standards that were developed in the context of constrained resources. It was accomplished by 'borrowing' staff from the child-protection focused program in the Office of the Guardian for extended periods and the provision of 'in kind' support from an external facilitator (Anne Bainbridge from YACSA). This is not a sustainable arrangement as it compromised the Guardian for Children and Young People's capacity to meet the distinct legislative requirements for that role. There is a continuing need for a second, dedicated Aboriginal Advocate, and specific funding to meet specific costs associated with conducting an inspection.

A full inspection in the future will best involve more resource-intensive elements such as developing and implementing an ethical and sustainable survey instrument for AYTC staff and key stakeholders, and the purchase of specialised expertise depending on the focus of an inspection (such as mental health, disability, education or health). To properly undertake an inspection, the TCV should have adequate

funding for independent staff and other resources reasonably needed for exercising the Visitor's function and related activities under s.14(1)(b) of the Act.

Additional factors are likely to affect the TCV's capacity to fulfil her inspection (and other) statutory functions in the future, these will include:

- ▶ an increased capacity to work with the Commissioner for Aboriginal Children and Young People (CACYP) and her office following anticipated statutory recognition of the role;<sup>58</sup>
- ▶ oversight of youth justice places of detention in light of the imminent establishment of the South Australian component of the National Preventive Mechanism for the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT);<sup>59</sup>
- ▶ the passage of the *Controlled Substances (Youth Treatment Orders) Amendment Act 2019 (SA)* and its implications for children and young people detained at the AYTC who may be subject to orders under that legislation.

## 2.3 Recommendations

These formal recommendations are priorities for immediate action.

They primarily focus on DHS and the AYTC but some apply to other government agencies including Child Protection, Education, Drug and Alcohol Services and Health, which provide (or *should* provide) services and programs at the Centre.

This report also contains commentary, observations and suggestions which do not appear as formal recommendations, but we hope they will contribute to an understanding of the AYTC experience of detainees and contribute to constructive discussion about improving that experience.

We are aware that some matters (that would otherwise feature as recommendations) are already being addressed. An example is the use of

<sup>56</sup> Training Centre Visitor. (2019). *Training Centre Visitor annual report 2018–2019* (p. 2). <http://www.gcyp.sa.gov.au/training-centre-visitors-annual-report-2018-19/>  
<sup>57</sup> as required by s.14(1)(b) *Youth Justice Administration Act 2016 (SA)*

<sup>58</sup> Youth justice is a major focus of the CACYP position, a factor clearly reinforced by community consultation undertaken in 2019. It will be necessary to establish appropriate protocols for a strong working relationship and to liaise and coordinate responsibilities between our offices. This will require significant time and capacity and reinforces the need for the Aboriginal Advocate position which was already proposed as a core component of the TCVU.

<sup>59</sup> An OPCAT role for the TCV as part of the State's NPM would require specific extra funding, depending upon the extent of the role.

various restrictive practices as raised by the TCV and Ombudsman in the period leading up to the November Inspection. An update on such matters will be provided in the TCV Annual Report.<sup>60</sup>

### Recommendation 1

That the model and associated custodial, protective and developmental policies and practices applied at the AYTC be reviewed to:

- a. assess their application and effectiveness in:
  - i. meeting the objects of the *Youth Justice Administration Act 2016 (SA)*, with particular regard to those objects that seek to promote the rehabilitation and reintegration of youths with the community; and
  - ii. providing detainees with the capacity to enjoy the rights expressed in section 22 of the Charter; and
- b. develop recommendations to ensure a balance between meeting the objects of security and correction on one hand and rehabilitation and reintegration on the other.

### Recommendation 2

- a. That DHS conduct an independent evaluation of the effectiveness of the AYTC Behaviour Support Framework (BSF) since its inauguration, including the extent to which it:
  - i. supports the optimal achievement of the objects of the Youth Justice Administration Act 2016 (SA); and
  - ii. responds to the needs of children and young people with varying cognitive abilities.
- b. That the reviewer should consult directly with detainees, staff and appropriate community members as a core review activity.

### Recommendation 3

That AYTC take immediate action to provide detainees, including those with specific communication support needs, with the following processes to seek formal responses to matters of concern to them:

- i. a formal grievance procedure supported by independent advocacy and oversight; and
- ii. a separate feedback mechanism through which detained children and young people can initiate consideration of general concerns and make suggestions about their lives in detention.



GOLDSBOROUGH  
ROAD CAMPUS  
GROUNDS

<sup>60</sup> For example, an important piece of work was undertaken for DHS in 2020 to review the use of isolation, segregation and force at the AYTC.

## Recommendation 4

That DHS conduct an assessment of the ongoing consolidated AYTC operations at the Goldsborough Road Campus, in order to-

- a. establish clear expectations with respect to the following:
  - i. operational demands and resources;
  - ii. necessary staffing across work and functional competency areas;
  - iii. the capacity of the facility and associated amenities to meet current and anticipated demands;
  - iv. accommodation and facilities that meet the needs of individual and specific groups of detainees (including those identified in this report such as girls and young women);
  - v. access to core services at all times;
  - vi. minimal impediments to enjoyment of rights [under the Charter], including through access to appropriate recreational, health, educational and socialising opportunities;
  - vii. the suitability of the current blanket gender 'no-mix' rule for detainees;
- b. consider the impact of facility deficiencies identified in this report, including the following:
  - i. the need for a second accommodation unit for girls and young women that –
    - allows for separate living environments for detainees by age, as is currently the case for males;
    - provides access to operational features, such as regression space
  - ii. educational/training spaces and opportunities;
  - iii. recreational and outdoor spaces and opportunities;
  - iv. cultural safety and appropriateness;
  - v. Visitor Centre spaces;
  - vi. appropriateness for different status detainees: for example, those in police custody; those on remand (and presumptively innocent); and potentially new classes of children and young people being placed in secure care (such as those detained under Youth Treatment Orders);

- vii. provision of a step-down transition unit for long-term residents scheduled to return to the community; and
  - c. obtain the views of detainees and staff through a consultation process.

## Recommendation 5

That data and information collection, analysis, sharing and public reporting about children and young people in youth justice detention be improved, through –

- a. DHS seeking advice from the Office of Data Analytics to identify relevant information held across government agencies and the best way to develop a child-focused, quality information system that enables extraction, analysis and exchange of information (with appropriate safeguards, particularly with respect to privacy); and
- b. DHS initiating a collaborative process across government agencies to improve the collection, sharing, analysis and public reporting about children and young people in youth justice detention.

## Recommendation 6

- a. That DHS publish an annual public report on its implementation of the *Aboriginal and Torres Strait Islander Youth Justice Principle* (reg.5 of the *Youth Justice Administration Regulations 2016* (SA));
- and
- b. That the first such report pay specific attention to:
    - i. the views of detained Aboriginal children and young people and the broader Aboriginal community;
    - ii. the needs of detained Aboriginal girls and young women at the AYTC;
    - iii. the roles of Aboriginal staff at all levels of the AYTC and DHS Youth Justice;
    - iv. how detainees' access to Aboriginal staff (DHS) is ensured;
    - v. whether and how detainees are enabled to maintain meaningful connection with families and community

## Recommendation 7

That AYTC (and other government agencies with a responsibility for detainees including Education, Child Protection and Health) provide a broader range of programs and services to meet detainees' needs and aspirations, taking account of their individual capacities, developmental age, disabilities and/or psychosocial characteristics, including in the following areas:

- i. opportunities for girls and young women;
- ii. engagement with culture and community (including as provided for through the Aboriginal and Torres Strait Islander Youth Justice Principle);
- iii. personal development and self-identification across life domains [including "SOGIE"<sup>61</sup>]
- iv. drug and alcohol misuse and rehabilitation;
- v. independent living skills, including cooking and budgeting;
- vi. increased access to on and off-site educational, community and cultural opportunities;
- vii. anti-bullying and peer support
- viii. planned transition to post-detention life.

## Recommendation 8

That the AYTC and other responsible government agencies improve the assessment/diagnosis and support for detainees with diagnosed or suspected disabilities and unmet psychosocial or developmental needs, with specific consideration of:

- i. regular and ongoing staff training;
- ii. providing a physical environment that accommodates differing sensory needs;
- iii. greater access to disability supports across life domains;
- iv. collaboration and information-sharing across systems to enable a more consistent and therapeutic environment for detainees in and out of the Centre;
- v. collection and analysis of appropriate disability-related data for public reporting.

## Recommendation 9

That DHS review end-to-end case management to consider the post-custody needs of detainees in order to reduce reoffending and maximise opportunities for post-release success and community reintegration.

## Recommendation 10

That DHS and DCP liaise to maintain an accurate record of 'dual-involved' detainees who are under the Guardianship of the Chief Executive of DCP and that their status is recorded in the Daily Population Spreadsheet.

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61 Sexual Orientation, Gender Identity and Expression

# 3. DESIGNING AND CONDUCTING THE PILOT INSPECTION

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## 3.1 Overview of detained children and young people

The Pilot Inspection was designed to ensure that we could elicit the views of detained children and young people. These views are transmitted and reflected upon throughout this report and in some detail in Attachment 2.

This section describes the detainee population at the time of the Inspection, which varied in several ways from an annual averaged population.

All detainees who were on site during Inspection days in November were offered individual interviews with members of the inspection team. A detainee focus group was then convened on 13 December to discuss themes emerging from those individual interviews.

Detainee participation was a highlight of the Inspection, both numerically and in terms of quality of input. Although young people were free to cut off interviews at any stage, some lasted for more than an hour. Of 39 potential interviewees, only five could not<sup>62</sup> or did not want to participate.

The characteristics of those interviewed were as follows:

- ▶ 87% of detainees participated (34 of a potential 39);
- ▶ A lower proportion of Aboriginal children and young people participated (14 of the 34 interviewed or 41%, compared with 20 non-Aboriginal detainees) than would reflect the proportion of individual Aboriginal children and young people admitted annually to the AYTC (50.5% in 2018–19);

- ▶ female detainees constituted 18% of interviewees (compared to 19.3% of individuals admitted to the AYTC during 2018–19);
- ▶ one detainee declared a different gender identification during the inspection;
- ▶ DHS did not provide the proportion of detainees under a guardianship order (to the Chief Executive of DCP) at the time of their admission.<sup>63</sup> The TCVU estimates that at least 11 (or 32%) of young people were under guardianship orders, and six of these 11 were young women (100% of female detainees).

The broad lessons we can draw from the views of this sample group would probably not have been much different from themes and opinions expressed by a similar sample taken at another time during the year. However, there were no 10- to 12-year-olds in detention at the time of Inspection.

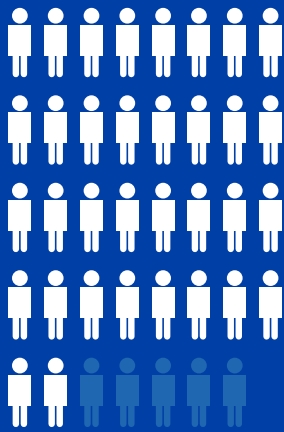
*Recommendation 5 addresses data provision*

## 3.2 Methodology and reporting

The main on-site Pilot Inspection activities occurred at the AYTC from Saturday 23 to Thursday 28 November 2019, with some associated activities conducted either side of this schedule to encourage engagement. Members of the Inspection team attended during the week and on the weekend and from early morning till later in the evening.

The core Inspection team included the Training Centre Visitor (Penny Wright); the staff of the TCVU (Belinda Lorek, Travis Thomas and Alan Fairley); and

## Detainee participation in AYTC inspection interviews 2019



There were 39 detainees

34 were interviewed

5 did not participate



27

Male

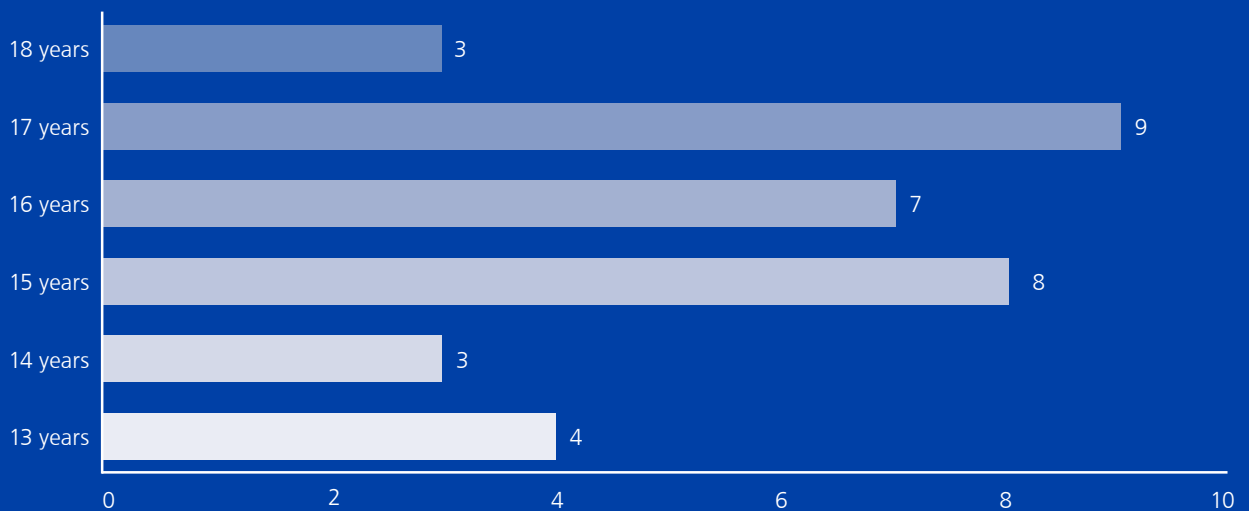
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Female

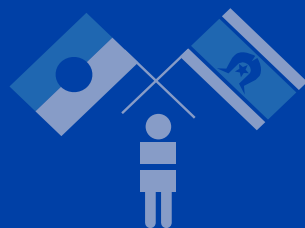
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Other

### Age of participants

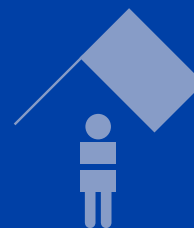


### Aboriginal status of participants



14

Aboriginal



20

Non-Aboriginal

three other staff from the Office of the Guardian for Children and Young People (Jess Flynn, Sarah-Jayne Meakin and Conrad Morris). Specialist support was provided by Jodie Evans (Project 18) and Anne Bainbridge (Youth Affairs Council of South Australia).

The ten pilot inspection standards introduced in Part 2.1 above largely reflected and responded to issues raised in reports of the TCV Visiting Program and Reviews of Records undertaken since mid-2018.

### Expert assistance

Due to the small size of the TCV team the task could not have been completed without the support of child protection program staff of the Office of the Guardian for Children and Young People. As with other aspects of the TCV's work, this included unfunded contributions from:

- ▶ GCYP administrative and communications staff;
- ▶ Jess Flynn, GCYP Senior Policy Officer, whose substantial contributions included functioning as an additional team member throughout inspection planning and implementation;
- ▶ the intensive support of GCYP Advocates Sarah-Jayne Meakin and Conrad Morris, especially through their sophisticated engagement skills during interviews with children and young people.

There is currently no dedicated funding in the TCV's budget for the Inspection function, a matter that has been raised by the TCV each year in her funding submission to government. In the absence of this resourcing there will be very limited capacity to purchase specific, independent expertise (e.g., a qualified mental health practitioner) for any future inspection.

In 2019, the TCV was able to secure the services of a specialist practitioner to support engagement with detainees. This was important partly to assist with the volume and intensity of direct dialogue with children and young people but also because we wanted to have an informed, independent perspective on engagement with detainees during the Inspection.

**Jodie Evans** from Project 18 conducted 13 of the detainee interviews jointly with Belinda Lorek (including with all the participating girls, young women and several specific detainees) and observed the operations of the Centre and relevant interactions during her time on site. The attributes we sought for this work were partly experiential and drew on Ms Evans' long-term knowledge of the youth justice detention and child protection systems and direct work with detainees. The professional attributes we sought involved the application of person-centred and strengths-based approaches, the principles of child safe environments and the use of creative and interactive engagement techniques.

**Anne Bainbridge** from the Youth Affairs Council of South Australia (YACSA) assisted with the development and implementation of a focus group for young people to unpack themes arising from individual interviews. Ms Bainbridge has extensive experience across the youth sector and led the closure of the Magill Training Centre campaign. Her insights were a valued contribution to the work of the Inspection team.

**Dr Simone Deegan** assisted with the analysis of resident feedback for reporting purposes, providing the summary we have included as Attachment 2 to this report. Simone is a criminologist and solicitor in the South Australian justice system and is a lecturer at Flinders University and the University of South Australia. She has particular interests in homicide, youth offending, prisons and desistance from crime.

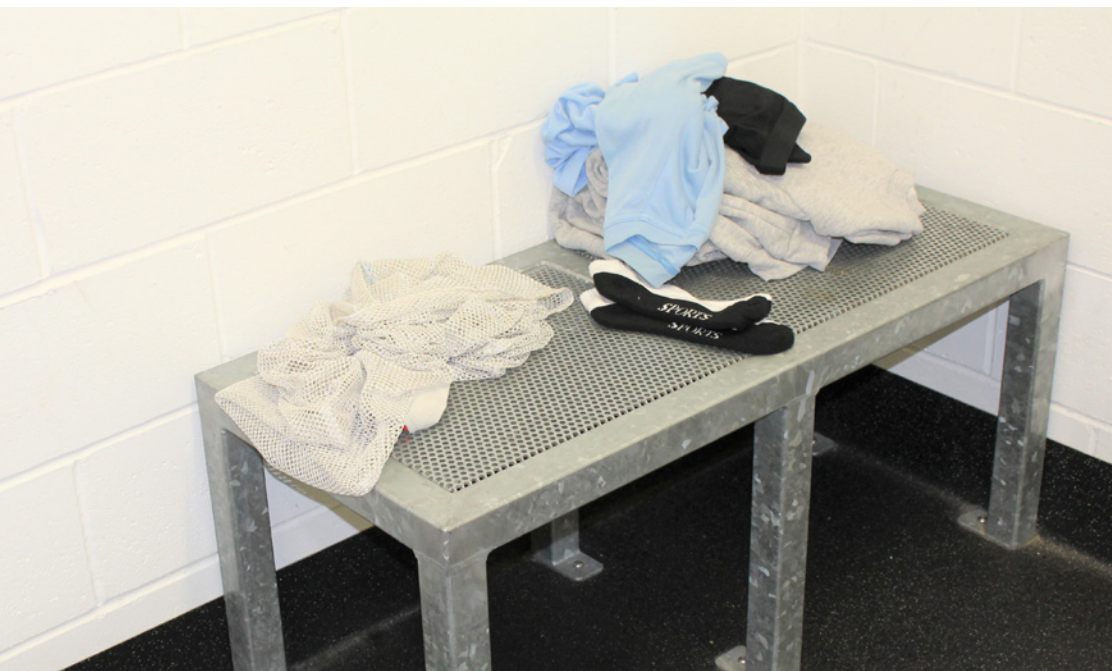
### Pilot Inspection standards

The standards and indicators introduced in Part 2.1 above responded to several major drivers:

- ▶ legislation;
- ▶ the *Charter of Rights for Youths Detained in Detention Centres*;
- ▶ the *Aboriginal and Torres Strait Islander Youth Justice Principle*;
- ▶ relevant international conventions;
- ▶ experience and learning from the preceding TCV Visiting Program and Reviews of Records.

62 Mental health issues prevented these detainees' engagement on the day.

63 This was despite multiple requests by the TCVU.



### Mock admission and detainee-led site tour

Two members of the inspection team participated in a mock 'admission' to better understand that process from a young person's perspective, the actual steps taken and access to the written and verbal information provided to young people about their admission and what they can expect from their subsequent experience in the Centre.

Two inspection team members assumed the role of a new male detainee being admitted to the AYTC for the first time for this role-play. The mock admission commenced with the experienced AYTC staff member assuring the young person that 'he' would be safe in the Centre, followed by an introduction to the admissions process with the opportunity to ask questions. The staff member accepted the young person's request to ring his parent, which is allowable if no child protection restrictions are in place. When asked how the admissions process is adapted for those who have English-language barriers, we were advised that phone interpreters are used to discuss basics, including safety and the semi-naked search process. If this service is unavailable at time of admission, the full admissions process is deferred until the next day. Delays can occur over weekends.

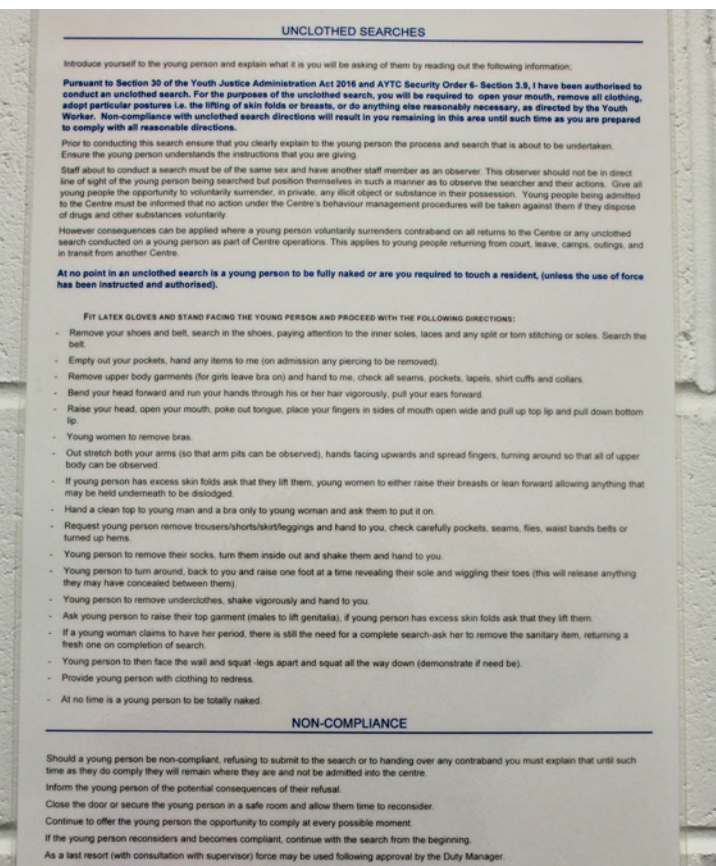
In their role of detainee, the inspectors observed that no information was provided about what occurs during the semi-naked search and there was no phone in the search room. They noted that there was no apparent way to modify the admissions area to meet disability or any other specific needs. For example, the area is very noisy, with poor acoustics due to the concrete walls and floor which could be particularly distressing for some children and young people.

The entire semi-naked search process could possibly be seen from two holding cells located near the search room, suggesting a flaw in the design of this part of the facility<sup>64</sup> (see accompanying photograph). The TCV has previously been advised that this holding cell is not frequently used due to this inherent lack of privacy but, if it is used, the door is left partially shut to obscure the view of a young person being searched behind a screen.

The mock semi-naked search was carried out as follows:

- ▶ The primary searcher stood in the room with the young person with a second staff member standing outside with line of sight to the first staff member but not the young person.
- ▶ The door to the search room remained open, which caused a constant beeping that may be

<sup>64</sup> The TCVU has advocated on behalf of detainees about this matter (and a similar search privacy issue at the Jonal campus which has since been resolved).



TOP: VIEW OF THE SEARCH ROOM FROM ONE HOLDING CELL IN ADMISSIONS

BOTTOM: SIGN ON THE SEARCH ROOM WALL

problematic for children and young people with a sensory processing disorder or sensitivity. This sound could potentially add to a young person's distress or distract them from listening to or hearing instructions from a staff member.

- ▶ We were told that should a child or young person decline or resist a semi-naked search they would be returned to their holding cell and checked on regularly until they consent. Signage on the wall states that a child or young person may be restrained for the semi-naked search (see photograph).
- ▶ The mock semi-naked search was conducted. The inspectors could not see any written or illustrated instructions, nor a statement about a child's or young person's rights, during this search.
- ▶ The verbal search instructions were clear and complied with legislative requirements:
  - Shoes and socks off; show bottom of feet; put fingers through hair; T-shirt off; arms out to side; lift up to show armpits; hands stretched out towards staff member; fingers spread; show front and back of hands; arms out to side; turn around; turn back; open mouth. A Centre issue t-shirt is then given to the child or young person to wear.
  - Pants off, naked from waist down; facing front, slight bend at knees and lift scrotum up; turn around, with back to staff member; squat and cough; turn back around. Centre issue pants are then provided while the staff member leaves the room so the child or young person can get dressed.

The mock admission process took about 25 minutes, reflecting what we were told is the standard duration for a new admission.

Of the two staff members involved in this process, the staff member who has a direct view of the detainee should be of the same gender. There was no apparent specific policy or procedure directing staff about what to do if a child or young person identifies as non-binary, transgender, or gender-diverse.

The Charter was not mentioned during this mock admission process nor was it visible anywhere. A copy of the rules of the Centre was not provided.

## The semi-naked search process for girls and young women

When undergoing the top half of the search, girls and young women are required to remove their bra to ensure they are naked from the waist up. If applicable, a young woman then will be asked to lift her breasts.

The applicable AYTC Security Order states that “female residents are to remove sanitary items for disposal” during this semi-naked search process, the initial situation in which the dignity and treatment of menstruating young women is compromised (see related discussion in Part 6.6 below).

We understand, however, that when the newly admitted child or young person arrives at their accommodation unit they are shown an induction video which includes further information about the Centre. It may be that new detainees are shown the Charter and/or given a copy of the rules of the Centre at this point. If this is not done, then the AYTC would be in breach of the Act.<sup>65</sup>

Admissions staff are the first point at which any important medical or other presenting issues can be identified or disclosed. For example, substance use/habits, withdrawal, medical conditions such as diabetes, physical injury arising from prior circumstances or their arrest and poor mental health. The process assumes that a child or young person will either disclose these issues when asked during that 25-minute block or that a unit based operational staff member will subsequently identify such issues.

Under the *Police Act 1998 (SA)*, SAPOL is obliged to deliver children and young people who are fit to be admitted, which means that the AYTC may request evidence that a fit for custody assessment has been undertaken. The Centre does refuse admission, at

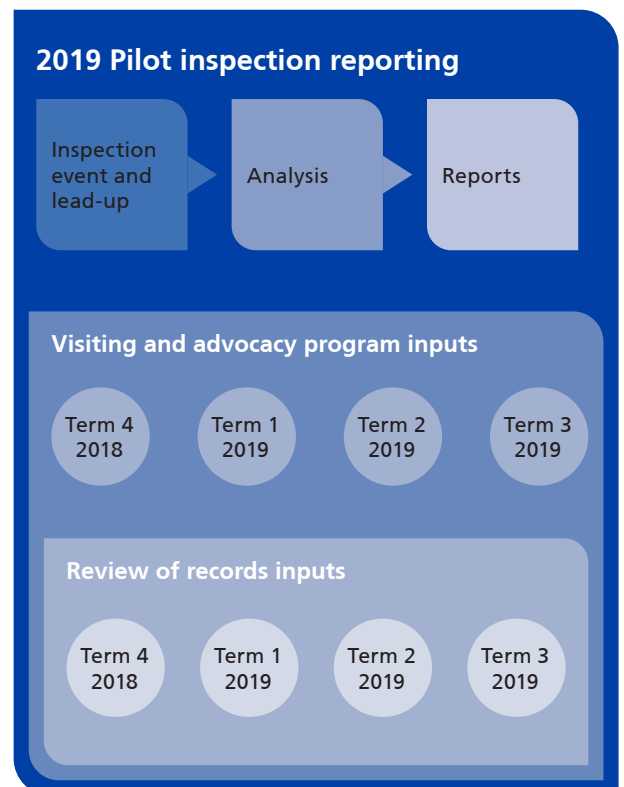
times, until such an assessment has taken place. Despite this, staff members observed that the AYTC has, in fact, become responsible for necessary medical treatment or transportation to hospital or treatment in custody.

## Facility tour

Two members of the inspection team separately were taken on a tour of Goldsborough campus, facilitated by two young people (one male and one female). This gave added insight into how the campus is viewed by detainees, with these perspectives informing several sections in this report. We acknowledge the positive and lively contribution of these two young people.

## Reporting

This inspection report incorporates information and observations from the Pilot Inspection and insights from preceding TCVU activities, as illustrated in the accompanying diagram.



The rationale for this approach is discussed in *Part 1.3.1* above and we again emphasise how this model allows time-sensitive monitoring of detainee circumstances, including through quarterly intensive

<sup>65</sup> *Youth Justice Administration Act 2016 (SA)*, s.23(1)(a).

reviews of records. In keeping with this approach, details of key TCV reports released since late-2018 are included in Part 1.3.3 of the current report.

When developing this report, we have been mindful of a finding of the Royal Commission into the Protection and Detention of Children in the Northern Territory:

*Any system of oversight and monitoring is only effective if those who receive reports from those bodies, both internal and external, pay due regard to the findings and recommendations....<sup>66</sup>*

## 3.3 Engagement with stakeholders

### 3.3.1 Constraints

#### Training Centre Visitor Unit

Staff time and other resources were the main constraint on the TCVU's capacity to develop, implement and report on the Pilot Inspection. This meant that options for a more fully developed inspection process could not be pursued, both prior to and during the on-site Inspection and has obvious implications for the implementation of the TCV's Inspection function in future years.

It was difficult to engage a full range of stakeholders in the design, lead-up to and delivery of the Inspection due to limited capacity to promote or discuss the process with community-based and professional interest groups.

It was not possible to devote time and resources to developing a survey process for staff who deliver services at the AYTC.

The capacity to engage specialist independent expertise or supplement the Inspection team was also limited.

#### DHS and the AYTC

The AYTC and DHS supported the inspection and facilitated the process well. Given constraints within their systems and current issues facing these organisations and their workers, the support was exemplary. Our mutual commitment to minimising disruptions for detainees and staff was realised broadly in practice.

Some factors impinged on the planning and implementation of the Inspection, however, and it is necessary to note these and consider how such factors will influence the nature of future Inspections.

Youth justice services generally, and the relevant operations of DHS and the AYTC are expensive commitments and almost inevitably resource-challenged. A question that arises when reporting on our findings is to what extent does this impact upon the capacity to meet fundamental objectives, especially the quality of care, treatment and control provided to incarcerated children and young people in an environment which acknowledges and gives effect to their core rights?

The following factors help describe the context within which DHS and AYTC staff participated in the Pilot Inspection process in 2019:

- ▶ There was an environment of organisational uncertainty, arising from strategic processes such as the ongoing DHS Youth Justice *Functional Review*.
- ▶ Government whole-of-public-service policies, particularly through staff separation processes, meant that the system was shedding experienced staff.
- ▶ The YEC was experiencing substantial staff turn-over and organisational change.
- ▶ In the period leading up to and during the Pilot Inspection, management within DHS, and especially within the AYTC, was disrupted and inevitably inconsistent.
- ▶ There had recently been substantial structural changes (notably the consolidation of operations on Goldsborough campus just weeks before the Inspection).

<sup>66</sup> Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory. (2017). *Report of the Royal Commission and Board of Inquiry into the protection and detention of children in the Northern Territory* (vol. 2B, p. 121). <https://www.royalcommission.gov.au/sites/default/files/2019-01/rcnt-royal-commission-nt-final-report-volume-2b.pdf>

- ▶ Staff morale had been low for a period of time leading up to the inspection (which is acknowledged by DHS), with a resulting impact upon the experience of detainees.
- ▶ Staffing practices, capacities and dynamics resulted in a sub-optimal capacity to operate the AYTC in accordance with its basic operational model (especially given the ongoing difficulties with maintaining daily staff rosters).
- ▶ External scrutiny associated with independent monitoring and reporting by the TCV and the Ombudsman affected staff morale. (In particular, the Ombudsman’s report on the use of restricted practices at the AYTC and subsequent media treatment had a major impact.)

### 3.3.2 Engagement with children and young people

Reflecting the requirement of s.14(2)(a) of the Act, under which the TCV must encourage detainees “to express their own views and give proper weight to those views”,<sup>67</sup> the Inspection team made considerable efforts to prepare and involve detainees in the inspection process.

Commitment to the Inspection process by detainees was excellent, as was the quality of their contributions. We try to capture their views in Attachment 2.

Thirty-four of the 39 children and young people on site during the Inspection participated in individual interviews; some were also part of a focus group<sup>68</sup> that met several weeks later to consider some themes generated from those interviews.

The existing relationships between individual detainees and members of the inspection team were a key factor in achieving this degree and quality of engagement. There is little doubt that some detainees only participated in interviews because of those existing relationships, let alone being prepared to speak with us about some sensitive matters. In arranging the on-site interview program with detainees, we took care to consider existing trust-based relationships and match Inspection team interviewers with specific children and young people.

This raises a conceptual tension which comes from the Inspection being implemented mainly by TCVU

staff who have an ongoing relationship with most of the children and young people, established during our ongoing visiting and advocacy roles. It is important to consider the implications of this but we believe that this tension has been and can be managed to maintain the integrity of an independent Inspection function.

### 3.3.3 Engagement with staff and professional groups

#### Staff participation

We recognise that AYTC staff are core stakeholders with an interest in the work of the TCV so our planning sought to ensure that AYTC staff had the opportunity to be involved if they wished. Although our on-site capacity meant that restricted options were available during the Pilot Inspection, we took the opportunity to speak whenever possible.

#### Opportunities available to staff

In our communications with AYTC staff, we emphasised the importance we attached to their views and experience, which would help inform the inspection, analysis and reporting. Obviously, the views conveyed in this report are from those who took the opportunity to be interviewed or participated in focus groups.

Attachment 5 is the main communication we emailed to the 180 staff on the DHS/AYTC operational distribution list at that time. As well as describing how the staff could personally be involved, we introduced the five themes we wanted to address in interviews. Staff members could raise *any* other issues with us at that time or subsequently.

The five themes for individual staff interviews were:

- ▶ Respectful relationships;
- ▶ Responsiveness to the needs of Aboriginal children and young people and other individuals or groups with special needs;
- ▶ Resourcing and the capacity to do the job;
- ▶ Wellbeing and health;
- ▶ Assessing and managing key activities/programs.

In the lead-up to the Pilot Inspection, we provided targeted and regular bulletins via the ongoing

67 Youth Justice Administration Act 2016 (SA), s.2(a).

68 The focus group met in two sessions; one brought together six male detainees and the other involved two young women.

Visiting Program and access to online media released on the GCYP's website (which hosts the TCV pages/material). We also held information sessions about the Inspection at each site for all staff.

The staff views presented in this report arose from three specific opportunities offered as part of the Pilot Inspection:

1. An open invitation to participate in an individual, confidential interview;
2. Participation in a focus group with selected disciplines or work units;
3. An invitation (to any staff member) to communicate views confidentially in writing and directly to the TCVU (or to meet with us at our city office).

### **Focus groups**

We convened professional and work groups in several focus groups to discuss similar themes to those indicated above. This means we convened 10 focus groups in all.

Those convened during the Pilot Inspection were with the following:

- ▶ Detainees (conducted by Anne Bainbridge, Chief Executive of YACSA)<sup>68</sup>
- ▶ AYTC Aboriginal staff
- ▶ Child and Adolescent Mental Health Services (CAMHS)
- ▶ Youth Justice Assessment and Intervention Service (YJAIS)
- ▶ Custodial case management
- ▶ Case coordination
- ▶ DHS executives
- ▶ AYTC operational management
- ▶ YEC
- ▶ Health Unit.

# PART B INSIDERS

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## 4. CHILDREN'S AND YOUNG PEOPLE'S VIEWS

*"I use the TCV to be heard."*

Interviews with detainees have generated detailed transcripts, creating a substantial record of the views of children and young people detained at the AYTC in November 2019. After an initial consolidation, arrangement and analysis of this material by the TCVU, Dr Simone Deegan was contracted to distil this material and identify important themes for reporting purposes. This allowed for some critical distance and an informed external eye. Dr Deegan also had access to notes from the focus group that Anne Bainbridge conducted with six young men and two young women on 17 December 2019. The focus group explored several themes generated from the detainee interviews.

As her summary of detainees' views and the subsequent discussion, are integral to the current report, Dr Deegan's full paper is provided as Attachment 2.

### The detainees' main concerns

Dr Deegan identified detainees' main concerns:

*Emerging as residents' primary concerns were a strong sense of fatalism regarding their means for shaping their own destiny whilst in lock-up; loss of freedom; strictness of rules/ bureaucracy; antagonism with youth workers; bullying; inadequate service provision; and a lack of meaningful contact with family and the outside world.*

Dr Deegan described a set of major themes "which 'touch, more or less directly, on the issue of agency and detainee/prisoner responsibility for their life course (where each has come from, where each is at and which path each 'decides' to walk in future)' (Halsey, 2008, p. 97)".

#### Theme 1

*Understanding rights and responsibilities*

#### Theme 2

*Fairness and equity*

#### Theme 3

*Detainee voice*

#### Theme 4

*Access to education*

#### Theme 5

*Health and wellbeing*

#### Theme 6

*Relationships*

#### Theme 7

*Institutional culture*

### Theme 1: Understanding rights and responsibilities

This first theme draws attention to a consistent detainee lack of understanding about their rights, exacerbated by what Dr Deegan calls the "alienating environments of the courtroom and training centre" intensified for many detainees who are "often living with cognitive and intellectual disorders". Detainees' comments about entitlements guaranteed by the *Youth Justice Charter* are a feature of this theme.

Two detainees are quoted to give a sense of how the admission process can impact on individual children and young people:

*It was alright—weird—the unclothed search made me uncomfortable because of my sexual abuse in the past.*

*I thought it would be orange and shackles ... I thought 'What the fuck?' [but] in a good way. There was good food. I thought I would be jumped but they [i.e., the other young people] didn't.*

Dr Deegan provides guidance about what will be useful to address:

*Running across the first-person accounts was residents' sense of not knowing what they were supposed to do or what was happening in certain situations, particularly if they felt mistreated or provoked. Not understanding the consequences of their actions compounded the emotional and developmental difficulties that young people suffered and led to destructive ways to cope and learn.*

## Theme 2: Equity and fairness

This theme explores the idea that some detainees doubt their ability "to take responsibility and to be heard in relation to matters affecting their self-efficacy and coping" and the degree to which this is possible in the AYTC. Again, two voices can be used to illustrate different views:

*We have no voice in here, [the staff] take over and this is why we go schizo ... acting up, swearing [and so on]. Injustice makes me act up.*

*They are trying to help us in here to be good. I don't want to end up in the big jail. I want to get a job, get paid.*

Dr Deegan's paper summarises views detainees expressed about several important issues relating to this theme:

- ▶ concern/compassion for the treatment of other young people;
- ▶ perceptions of unfair and/or inequitable treatment;
- ▶ some frustration with the AYTC "phases" system;
- ▶ mental health issues: "Resident expectation that staff place the highest premium on fairness and equity was further challenged by the impact on detainees with severe and complex mental health issues."

## Theme 3: Detainee voice

The Act requires that the voices of detained children and young people be sought, heard, and allowed to influence the youth justice process. All detainees, including those who have specific communication support needs, should have access to these opportunities. Current arrangements go some way to giving effect to these requirements: for example,



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through the Youth Advisory Committee (YAC) and being invited to complete a Resident Incident Comments (RIC) form. While improvements should be made to these mechanisms, immediate action should be taken to provide AYTC detainees with appropriate formal grievance processes.<sup>69</sup>

### **Recommendation 3 responds to these issues**

Most detainees felt empowered to speak up if they had a complaint; however, this empowerment “stood in stark contrast to the belief or expectation that anything constructive would come from voicing their concerns”. Views were expressed about the YAC, the value of case conferences and the use of RICs.<sup>70</sup> Management is seen as being primarily concerned with risk and danger.

As well as being critical of available formal dispute resolution processes, some detainees complained about what they saw as petty rules and procedures:

*[There are too many] bureaucratic and inefficient processes to feel like we have a voice. The egos [of those in charge] get in the way.*

*Nothing ever changes—if it does, it’ll be down the track and we won’t be here in the Centre.*

Most respondents did not indicate that they had been prevented from approaching the TCV if they wanted to, but several reported that this contact had been impeded or undermined. Several young people noted that they were told by a small number of staff that it was not a suitable time to ring the TCVU or staff advised them that the TCVU is not able to assist on that matter (so there was no point in making contact).

## **Theme 4: Health and wellbeing**

Dr Deegan’s paper discusses this theme in some detail (with quotes from detainees by way of illustration). Her context for this theme is as follows:

*Adolescents detained or confined in correctional care facilities have been shown to have numerous health problems including mental health; disability (including Foetal Alcohol Spectrum Disorders); substance misuse; sexual health, including sexually transmitted infections; and trauma (Australian Institute of Health and Welfare, 2018). Autism, ADHD, PTSD, schizophrenia, anxiety and depression were among the diagnosed conditions reported by young people in AYTC.*

A majority of detainees (65%) believed their physical health had improved while in detention (subject to certain caveats, such as weight increases associated with more regular eating and a more sedentary lifestyle), noting factors such as “regular opportunities to detox, sleep, gain weight and ‘catch-up’ on aspects of their health care that were otherwise neglected in their lives outside the facility”.

Several detainees reported that access to health and social services amounted to the best “care” they had ever experienced. Health services and staff were particularly valued, as was dental care, despite practical concerns about staffing issues and demand on resources preventing appointments. Some specific concerns alluded to problems associated with the recent campus consolidation (e.g., the negative impact of the rule that males and females must not mix).

Other specific detainee concerns included the following:

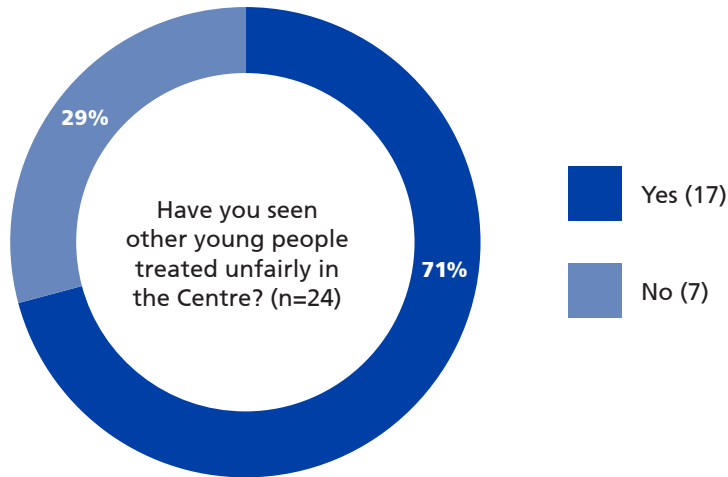
- ▶ limited availability times of medical staff: “Having a doctor come more often would make it better; so would a nurse visiting the units every day”; a doctor should be available more than one day a week;
- ▶ excessive and intrusive gatekeeping, with the suggestion that this deters detainees from making appointments: “Staff want to know why you want the nurse”;

69 A project to pursue this idea has since been identified in the Youth Justice State Plan. Department of Human Services (2020). *Young People Connected, Communities Protected, South Australia’s Youth Justice State Plan 2020-23*. South Australian Government, June 2020

70 RIC forms are responsive to s.33 of the Act and are completed post incident to gain detainees’ views.

Chart 5

AYTC inspection 2019 (n=24)



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- ▶ indignity associated with only male staff being rostered onto the female unit at times, with the young women “having to ask male staff for embarrassing, private stuff” over the intercom so that “everyone in the office hears you ask”;
- ▶ inappropriate clothing;
- ▶ sleep disturbance attributed to anxiety;
- ▶ problematic in-unit hygiene and grooming products;
- ▶ varying views on confidentiality. Some detainees believed health services were confidential, while another was not sure how widely their personal information may be shared.

Detainees proposed some healthy lifestyle improvements, including regular access to [all aspects of] the gym irrespective of phase level (i.e., asserting this should not be a behaviour-related wellbeing resource) and more physical activity, with less time spent “locked down”.

**Theme 5: Access to education**

According to Dr Deegan, most detainees “commented that educational and vocational services in AYTC increased their self-efficacy, sense of achievement and self-esteem while breaking up the monotony of the day”. Compared to mainstream school, smaller AYTC class sizes, Student Support

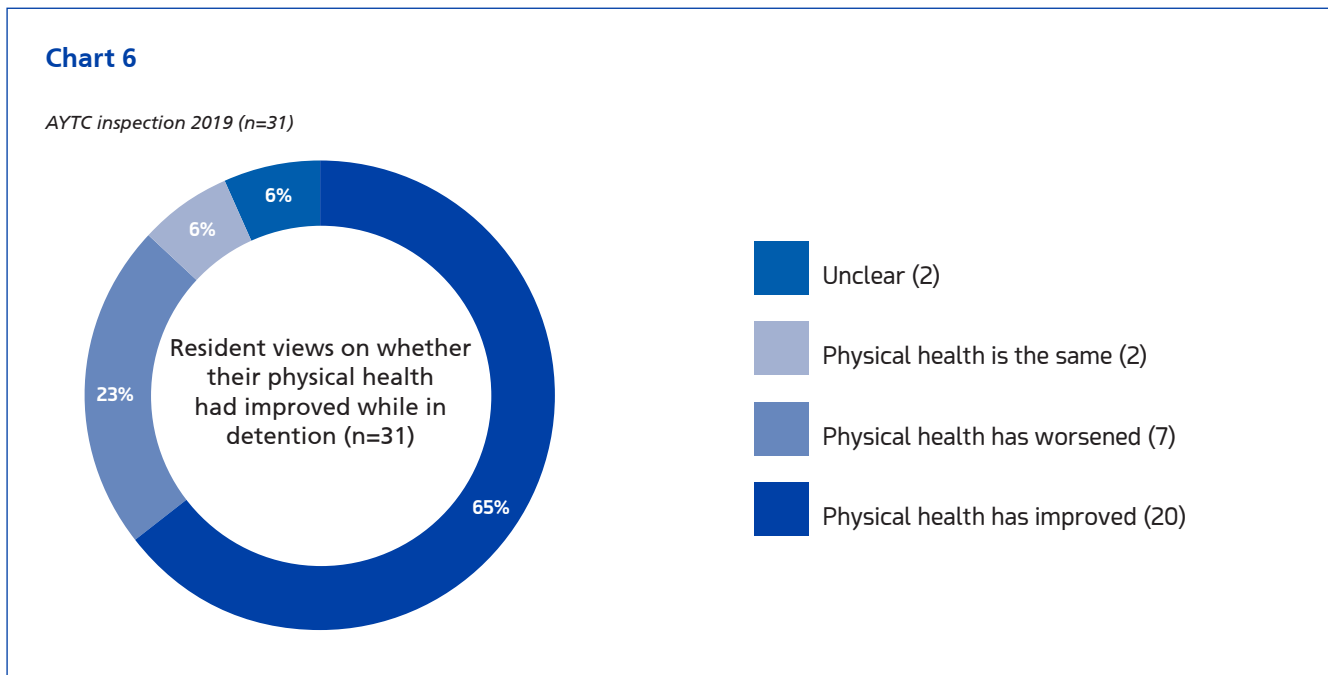
Officers (SSOs) and helpful teachers were identified as having a positive learning impact. However, a one-size-fits-all education approach was criticised, including in relation to high-achieving students.

Detainees also identified limitations to their education associated with restricted online access, the impact of staffing-related lockdowns and/or the disruptive behaviour of other students: “If one person acts up, we are all locked down. It doesn’t matter which unit acts up: girls, boys or little boys.”

Some detainees disclosed that they had not attended school “on the outside” for several years.

Reflecting on a number of detainee comments, Dr Deegan notes the following quote from Hamilton et al.:

*[T]he most effective programmes in youth detention are those designed to meet the needs of individuals, based on the assessment of multiple possible contributing factors such as prior service involvement, previous assessments, school reports, and familial and social histories to identify ... stressors which may impair individual functioning (2019, p.139).*



## Theme 6: Relationships

During interviews, “young people consistently emphasised that relationships, particularly peer and family connections, can and do play centrally important roles in influencing their behaviour, feelings of coping, hope and the path each ‘decides’ to walk in future”. Keeping in touch, however, is restricted to letter writing, (monitored) phone calls and personal visits.

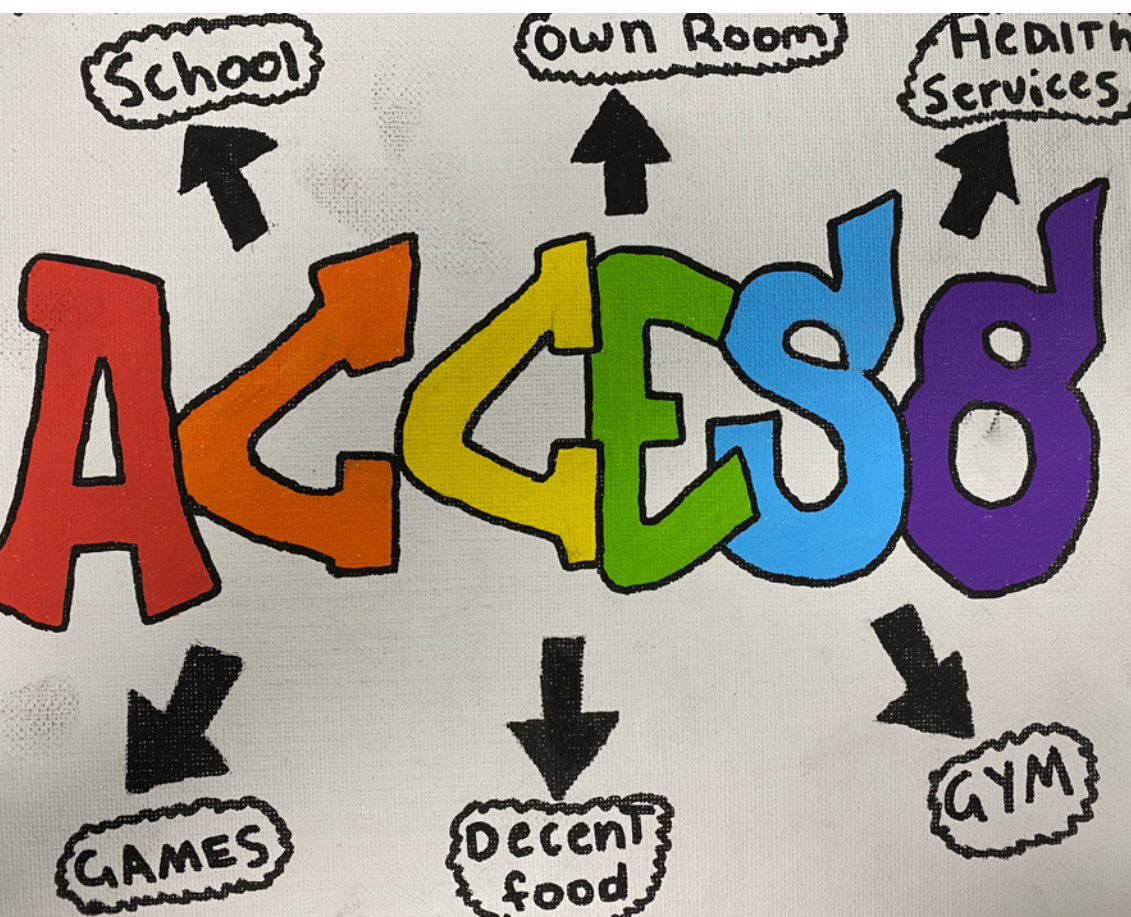
Attachment 2 provides a compelling account of the importance of phone calls and visits to detained children and young people. It also identifies various detainee concerns and some suggestions about what detainees think would improve their situation. The richness of this commentary should be read in full so will not be summarised here.

## Theme 7: Custodial climate: Safety and treatment

Of 31 children and young people who responded to the question “Do you feel safe in here?”, 20 (64%) said “Yes”, three said “No”, eight indicated “Sometimes” (26 %) and one said, “I don’t know”, with the latter respondent giving some sense of the Centre environment:

*Some workers do help, some don't. [They] 'set the feel' for if you feel safe. If good staff outweigh the 'bad' on shift, it will be a 'good' shift. 'Bad' workers are the minority. Good workers act 'normal' and just speak normal to you, [whereas] some talk down to you as a boss and I want to punch them in the face.*

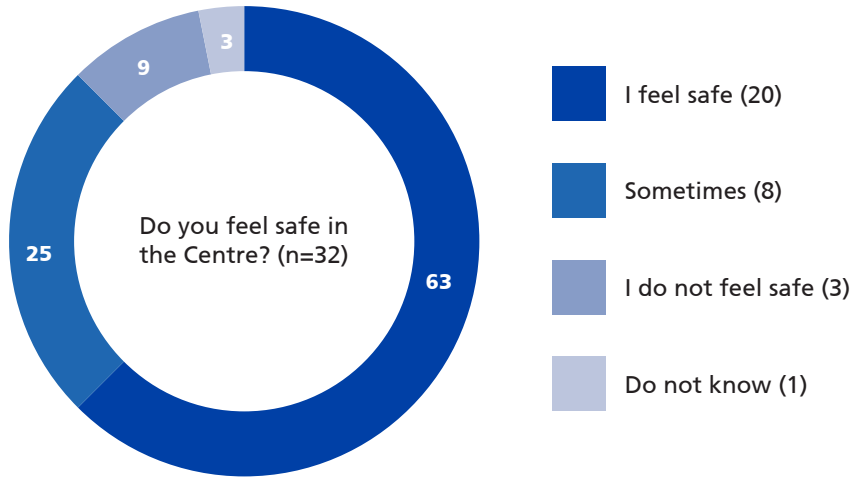
The role of staff was a commonly noted factor for those who said they felt physically safe. At times, there was a distinction between what can be summarised as physical and emotional safety. Examples are provided in the attachment.



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## Chart 7

AYTC inspection 2019 (n=32)



Dr Deegan summarises detainees' views by reporting that detainees considered themselves to be "locked up" in "prison". Two comments capture this:

*I withdraw to my cell, which it is. The public don't want to know we are locking kids up; that is why it is called a training centre and not a jail.*

*At the end of the day, it's a jail in here.*

## Bullying

Bullying is a feature of the Centre's culture, according to the views conveyed in Dr Deegan's synthesis. Young people generally took bullying as "an entrenched and inevitable part of the initiation and training centre hierarchy process". One detainee said, "Yeah, there's heaps of bullying, talking shit ... we're bored, or you just don't like [someone]."

All 26 detainees who commented on whether bullying happened at AYTC said it did and that bullying manifested in diverse ways. They cited characteristics that included race, ethnicity, the crime committed, appearance and sexuality, and factors such as age, immaturity, or "how they hold

themselves". One young person said that "you need to pretend to be tough so other kids won't target you. I feel pissed off; I want to take off my mask and just be who I am." A more benign role was assumed by some detainees who had taken others "under their wing" to protect them from bullying or other predatory behaviours (i.e., "standovers").

Most detainees were reluctant to approach staff openly about bullying for fear of being labelled a "dog" and being subject to further victimisation. There was a perception that staff would only intervene if physical contact was made, with some harsher comments also noted that staff 'do nothing' to intervene and are unable to recognise and then manage the covert nature of bullying.

## Respect

Dr Deegan's summary draws a concerning picture:

*According to the experiences of the young people in this report, institutional disrespect, cultures of suspicion, isolated episodes of violence and authoritarian management styles permeate relations between youth workers and young incarcerated males (and females) at AYTC. According to residents, it was vitally*

*important that staff have a background in psychology or working with PTSD and other disorders. [By contrast, detainees tended to believe that the main professional backgrounds of staff included being in the military, private security or police service.]*

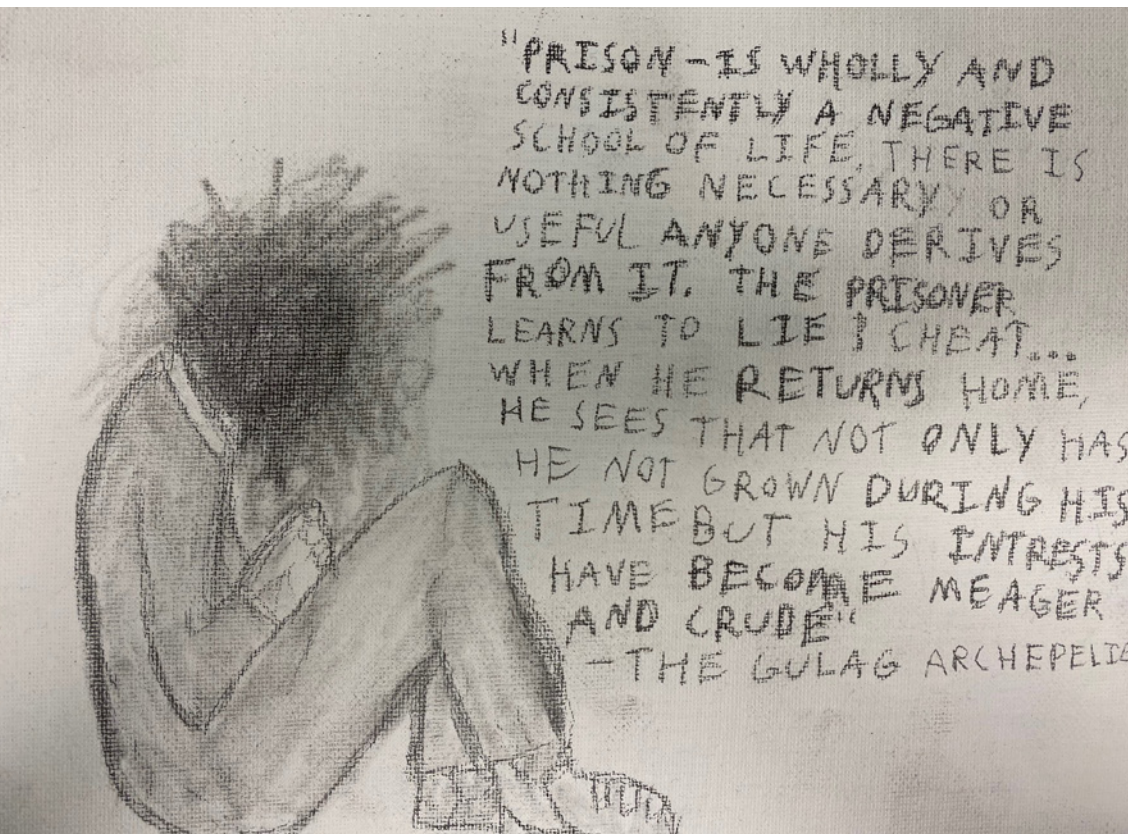
Attachment 2 provides examples of disrespectful and respectful behaviour shared by detainees, as well as other positive interactions with staff, illustrating the nuanced understanding many detainees have about their current circumstances.

A particularly reflective response was provided by one long-term detainee for whom respect "is very important". He noted that staff "must recognise they have a lot more power than us" and manage this dynamic and responsibility appropriately.

During interviews, another detainee noted that staff 'demand' respect but this young person felt that respect should 'be earned' in that kind of environment. Another simply reflected that acts by others such as staff 'greeting you by name and asking how you are' models respect.

## Consequences

Detainees were asked about the "consequences" that are applied to them at the AYTIC. Citing Halsey (2007), Dr Deegan said that most interviewees, while understanding the need for consequences "could not grasp how the conditions to which they were [punished] could any way assist them to become a ["better person"] (Halsey, 2007, p. 349)".



ART WORK CREATED  
BY YOUNG PEOPLE  
FOR THE INSPECTION

*LIVING UNIT - SLEEPING  
ROOM CORRIDOR*



*SLEEPING ROOM IN A UNIT*



*STANDARD BED IN A SLEEPING ROOM*

## 5. STAFF VIEWS

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### 5.1 Staff input

Working with children and young people in detention is a privileged, challenging and potentially rewarding role. Those who take on this role were seen to be a major stakeholder group for the purpose of the Pilot Inspection, complementing the views of detainees themselves. We took the opportunity to be as open as possible to feedback from staff who work in diverse ways with detainees. However, there were two main mechanisms: individual interviews and professionally based focus groups.

Staff views inform discussion in many areas of this report but in this part we summarise and comment upon views expressed in relation to themes of diversity, training and morale. Where appropriate, these views are complemented with information or opinions provided by DHS and other stakeholders.

### 5.2 Staffing and diversity

A key finding of a recent Victorian report inquiring into that State's youth detention centres was that "[i]deally, a youth justice centre will be staffed by a diverse range of workers" and that "[d]iversity in staff provides young offenders with a range of role models to learn from and enhances the likelihood of staff being able to make positive connections with young people."<sup>71</sup> Specific desirable characteristics identified included a high level of emotional intelligence; an ability to de-escalate conflict; knowledge of restraint techniques and alternatives (and legislation covering their use); the ability to engage effectively with young people and quickly form strong, positive relationships; the capacity to understand and work within a trauma-informed environment; and an ability to demonstrate cultural awareness.<sup>72</sup>

We asked DHS to identify the degree to which the composition of the AYTC staff cohort reflects detainee diversity. This was the response from DHS (in December, 2019):

*It is the goal of the Department to create a workplace that reflects the community we service. The DHS Diversity and Inclusion Strategy 2017-2020 includes seven action plans to guide us to achieve an inclusive workplace culture and develop and retain our diverse workforce, to improve the quality of service we provide and ensure our people are valued for their individual skills, perspectives and experiences.*

*The AYTC celebrates diversity and acknowledges that further work is required to increase recruitment of staff from a broad range of backgrounds to the greatest extent possible. This will be given priority in the next intake of new Youth Workers in early 2020 and is also a key focus within the Youth Justice strategy, under development.*

DHS was also invited to describe what has been done to recruit and retain Aboriginal and Torres Strait Islander staff in the period since 1 October 2018, and DHS subsequently identified the following actions (as at December 2019):

- ▶ Actions taken by DHS under the DHS Diversity and Inclusion Strategy included growing the Aboriginal Employment Register and promoting employment opportunities at job expos, such as the Port Adelaide Football Club Aboriginal Employment Expo.

<sup>71</sup> Parliament of Victoria. (March 2018). Legislative Council Legal and Social Issues Committee, *Inquiry into youth justice centres in Victoria Final Report* (p. 156). [https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth\\_Justice\\_System/Reports/LSIC\\_Inquiry\\_into\\_Youth\\_Justice\\_Centres\\_report\\_WEB.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth_Justice_System/Reports/LSIC_Inquiry_into_Youth_Justice_Centres_report_WEB.pdf)

<sup>72</sup> Parliament of Victoria. (March 2018). Legislative Council Legal and Social Issues Committee, *Inquiry into youth justice centres in Victoria Final Report* (p. 155). [https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth\\_Justice\\_System/Reports/LSIC\\_Inquiry\\_into\\_Youth\\_Justice\\_Centres\\_report\\_WEB.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth_Justice_System/Reports/LSIC_Inquiry_into_Youth_Justice_Centres_report_WEB.pdf)

- ▶ DHS were aiming “to be an employer of choice for Aboriginal communities through building a workplace that is inclusive and respectful of Aboriginal culture. We will build on initiatives to attract, retain and develop Aboriginal employees and provide real career pathways. Youth Justice has, for example, participated in the last 12 months in the DHS Aboriginal Trainee program, employing two Aboriginal people into Youth Justice.”
- ▶ DHS were working with MAYFS “to design Aboriginal in-reach services at the AYTC to increase opportunities to build connections between young people and community-based services.”
- ▶ “AYTC recruitment staff discuss recruitment opportunities with the AYTC Cultural Advisor, Aboriginal staff and agencies. The recruitment of Aboriginal staff will be given priority in the next intake of new Youth Workers in early 2020 and is also a key focus within the Youth Justice strategy, under development.”

Additional goals have since been identified in the Youth Justice State Plan (2020–2023), released after the Inspection, in June 2020.<sup>73</sup>

Two detainees said they would like to see more Aboriginal staff working in the Centre. One said he would be more likely to speak to an Aboriginal staff member because he felt they would better understand his needs than a non-Aboriginal would. Another detainee had waited for an Aboriginal staff member to be on shift prior to making a complaint, due to an established trusting relationship.

A staff member said that lesbians and gay men working at the Centre are “struggling” with how to live their identity in that environment.

## 5.3 Staff training

### 5.3.1 Training needs

Several staff identified training as an area in need of improvement. One staff member said that “we don’t have the tools”, while other staff said that there was

inadequate access to training and that it was not properly supported “from higher up”.

A longer-term staff member saw an inherent problem stemming from what he described as the development and implementation of the Act “without proper consultation”, resulting in basic problems that training cannot fix.

DHS management described a seven-week induction and training process for new operational staff, which included components such as MAYBO<sup>74</sup> and trauma-informed care. Updates were then available to staff after this training, especially in relation to child safe training with an emphasis on child safety “in a custodial environment”. They have acknowledged that the approach needs further development.

In the course of interviews, staff strongly asserted that there were several main areas where training was deficient, including disability, sexuality/gender, culture, drug and alcohol use and mental health. (On the other hand, management asserted that while they are seeking to improve training, the current state of training in these areas is reasonable in relation to the roles undertaken). The staff views draw into focus DHS’s claim that “[s]taff are trained in behaviour support techniques to de-escalate behaviour, aimed at reducing incidents and the use of physical restraints”, not so much to dispute it but to suggest that what is provided is unlikely to go even close to responding to the reality of needs at the AYTC.

Recommendation 15.8 of the Institutional Child Abuse Royal Commission<sup>75</sup> is noteworthy here:

*Youth detention|Support and training for staff  
- Recommendation 15.8*

*State and territory governments should ensure that all staff in youth detention are provided with training and ongoing professional development in trauma-informed care to assist them to meet the needs of children in youth detention, including children at risk of sexual abuse and children with harmful sexual behaviours.*

<sup>73</sup> Department of Human Services (2020). *Young People Connected, Communities Protected, South Australia’s Youth Justice State Plan 2020-23*. South Australian Government, June 2020

<sup>74</sup> The MAYBO SAFER model is a package of conflict management and physical intervention training that is the standard staff training model in the AYTC.

<sup>75</sup> Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Final report (preface and executive summary, p. 150)*. [https://www.childabuseroyalcommission.gov.au/sites/default/files/final\\_report\\_-\\_preface\\_and\\_executive\\_summary.pdf](https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_preface_and_executive_summary.pdf)

In December 2019 (after the on-site inspection), the DHS update relating to this recommendation reported as follows:

*Youth Justice staff receive recurrent training, including in trauma-informed practice, to ensure consistent practice in accordance with the Youth Justice Administration Act 2016.*

*All new youth workers at the Adelaide Youth Training Centre – Kurlana Tapa (AYTC) are enrolled in Certificate IV in Youth Justice, to be completed within their first 12 months of employment. The Stanton Institute, in consultation with Youth Justice, has agreed to incorporate the elective unit Work effectively in trauma informed care into the Certificate IV in Youth Justice. The unit is expected to be available to all youth worker intakes in 2020.*

Although all new entry-level staff to the AYTC are required to complete Certificate IV in Youth Justice within 12 months, we understand that this latter course is elective, not mandatory.

Two staff members suggested that “proper” training should be provided to staff in areas such as sexuality and gender.

Staff with mental health expertise said that youth justice staffing teams should be better supported with training in mental health, trauma, self-harm and personality structures of young people.

### **Training in relation to detainees’ mental health and use of alcohol and other drugs**

Staff voiced strong opinions about the training they received in relation to detainees’ mental health, as well as the impact from the use of alcohol and other drugs (also referred to elsewhere in this report):

- ▶ “The biggest thing is mental health and identifying risks. I did a one-day course. Is that enough?”
- ▶ “We need to identify mental health and alcohol and other drugs” [i.e., be trained to identify when these are factors for specific young people].
- ▶ “We got a printout of things in psychosis to identify” a “tick box” list.

- ▶ In relation to the two-day child mental health course staff had access to, one staff member said, “What the fuck is that?” This staff member also said that while it is “ok to be introduced to this stuff”, there should be follow-up and the opportunity for further development.
- ▶ Another staff member said that they had asked to do a more specialised course but received the response: “No way ... money.”

In relation to training about the impact of alcohol and drug use, there was a comment that staff receive “nothing: this stuff isn’t in induction” and that there is no ongoing training. Another staff member said that a “big issue” was that many children and young people come into the Centre following a drug binge and that most staff do not understand the clinical aspects of this influence, especially in terms of withdrawal: “I don’t know what the implications are of 20 cones a day.” Another staff member stated that sometimes there are not enough staff available to deal with the situations that can arise from managing these needs.

These opinions are significant, given the findings of a major Victorian parliamentary report that examined youth detention in that state, which observed that “[y]outh justice staff must be well trained in delivering services, for therapeutic youth justice models to be effective” and that “[w]ithout a trauma-informed approach to the management of youth justice centres, at-risk children and young people will continue to face significant obstacles in their paths to recovery and rehabilitation, and staff in youth detention centres will continue to face significant difficulties in managing children and young people in their care.”<sup>76</sup>

### **5.3.2 Access to training**

Several staff members expressed concern that operational constraints often mean that staff could not undertake training even if it is available. In effect, “management can’t afford to have staff leave the floor.” Another described the environment as follows: “We’re keeping things going. There’s not enough staff to be able to go off to do training.” What is done is done locally; for example, a staff

<sup>76</sup> Parliament of Victoria. (March 2018). Legislative Council Legal and Social Issues Committee, *Inquiry into youth justice centres in Victoria Final Report* (p. 156; pp. 111–112). [https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth\\_Justice\\_System/Reports/LSIC\\_Inquiry\\_into\\_Youth\\_Justice\\_Centres\\_report\\_WEB.pdf](https://www.parliament.vic.gov.au/images/stories/committees/SCLSI/Youth_Justice_System/Reports/LSIC_Inquiry_into_Youth_Justice_Centres_report_WEB.pdf)

member might be able to shadow someone for a day to learn what they do.

The availability of a training course on the computer was seen to be problematic, partly because this type of training does not suit all people (who may prefer going off site to train), but primarily because staff “don’t have time to complete these on top of their other work.”

### The importance of some training

Recommendation 15.6 of the Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse recommended that all staff should receive appropriate training about the needs and experiences of children with disability, mental health problems and alcohol or other drug problems and about children from culturally and linguistically diverse backgrounds. Such training should highlight the barriers these groups of children and young people may face in disclosing sexual abuse.

In December 2019, *after the Pilot Inspection*, DHS reported that all new DHS employees must attend a one-day induction program. All new operational staff at the AYTC must now complete a seven-week induction program. Training for all staff includes the following:

- ▶ trauma-informed practice;
- ▶ cultural awareness and diversity;
- ▶ child safe environments;
- ▶ mental health and suicide awareness.

In addition, all new youth workers at the AYTC are enrolled in Certificate IV in Youth Justice, to be completed within their first 12 months of employment. As mentioned above in relation to the Stanton Institute, in consultation with Youth Justice, have agreed to incorporate the elective unit ‘Work effectively in trauma informed care’ into the Certificate IV in Youth Justice. The unit is expected to be available to all youth worker intakes in 2020 but, as discussed above, we understand that it is currently an elective and not mandatory.

Additionally, disability awareness online training is available to all DHS staff and is a requirement for all AYTC operational staff. Youth Justice is also investigating further disability training options.

While the TCV has yet to form a view about whether these new requirements are sufficient to respond

to the high-level needs and vulnerabilities of many children and young people in detention, it is important to establish what minimum competencies must be held by staff who interact with them daily.

### 5.3.3 Cultural awareness and cultural engagement training

#### Aboriginal staff’s views

Aboriginal staff identified problems with how cultural awareness training occurred at the Centre, suggesting that some other staff do not have a good understanding of Aboriginal culture. It was observed that some non-Aboriginal staff were angered by Aboriginal cultural training and noted that “Naming white privilege is offensive to them”. They also observed that some non-Aboriginal staff complain about *racism* if they have been called “white dogs” or worse, angered because their “privilege” has been challenged. It was suggested that all staff should be equipped to relate to children and young people for whom cultural identity is an area of concern.

The Centre can be a fraught environment for young people to enter, and they can react to the environment through anti-social behaviours. During a focus group, we were told that a ‘young person’ stated to a trusted staff member, “I am Aboriginal but trying to live white.”

Specific factors to note in this context include the following:

- ▶ At the time of Inspection, there was no reported consultation with Aboriginal staff to help understand AYTC-specific issues when designing cultural training for staff.
- ▶ An Aboriginal staff member said they had only once, over many years, spoken at an information session for new staff. In the staff member’s opinion, Aboriginal staff cultural expertise is not taken “seriously enough”.
- ▶ Cultural awareness training does not seem to be a priority, with workers attending a two-day workshop when first employed, followed by a yearly half-hour online refresher course. Such training was described as “shallow, tokenistic”, and it was suggested that the system should think about employing an Aboriginal training officer.

- ▶ This is particularly a problem because many staff members' only interaction with Aboriginal people has been through contact with detainees and Aboriginal staff.
- ▶ It was suggested that this training could better be tailored for specific individuals.

We were told that 2012 was the last time Aboriginal staff got together to talk about cultural issues and that current staff want to get together but this has not been supported due to what was seen as an "ex-correctional mindset" in the Centre.

We note that since the Pilot Inspection in November 2019, DHS has made significant senior appointments of Aboriginal staff in 2020, with experience and skills to help lead reform in the youth justice area.

*Recommendation 6 responds to these issues*

### Health Focus Group comments

SA Health staff who participated in a Health Focus Group said they are "well supported" with respect to training and development in this area. When considering whether staff demonstrate culturally respectful engagement, it was noted that operational staff may contact health staff about what to do in certain circumstances (e.g., for gender-related issues). As detainees are generally comfortable speaking with health staff, this could sometimes be an avenue to develop appropriate dialogue and action.

Health staff noted that they always try to be guided by the detainee's voice when delivering their own service, giving the example of providing a male nurse if the detainee involved is an initiated Aboriginal man and it is not appropriate for a woman to assess or treat him. Health staff also said that while AYTC-based cultural consultants have done a good job over the years, "more Elders should be in this place" and that the "main issue" is that "we need more Aboriginal health staff for cultural support."

A DHS Cultural Champions Network that is scheduled to meet every six weeks was mentioned in another focus group.

### CAMHS focus group comments

Both AYTC staff and young people rely on the strong CAMHS Aboriginal staff presence in the Centre. Without this, there would be a considerable gap in the number of Aboriginal staff and the cultural guidance available for detainees. CAMHS has played this significant role, including partly filling the gap in terms of Aboriginal programs, for an extended period.

## 5.4 Staff morale

DHS executives recognised that AYTC staff morale is low. Noting some factors that influence this, they emphasised the need to display leadership in an environment in which the "landscape shifts quite quickly".

At the time of the Pilot Inspection the immediate impact of the recent implementation of the Dynamic Model was still being felt, especially its effect on the girls and young women. There were other significant changes occurring too, such as the phasing out of spit hoods and minimising the use of force. These factors added to the tension that always exists in a detention environment seeking to balance custodial and rehabilitative responsibilities.

With regard to their peers, one staff member commented that "the merger has put heaps of pressure on mental health. If someone's flexible, that helps here; if you're too rigid, it creates issues." It is unlikely that the stresses associated with the variable operation of the AYTC on one or two sites will disappear in the foreseeable future, so the long-term viability of sustaining two sites needs to be discussed and resolved.

It is fair to say that the view expressed by staff about the state of morale at the time of the Pilot Inspection was unequivocally negative. The following examples are just a few of the specific comments made:

- ▶ "Staff morale and absenteeism is at its worst ... and 100% it's affecting resident and staff safety. Absolutely."
- ▶ Morale is "at its lowest [and] the kids know it too."

- ▶ Reference was made to a fellow staff member who “just walked out: they cracked.”
- ▶ “Morale is down ... we’re not getting support from above.” This perceived lack of support was underscored by the suggestion that frontline staff “want help” and training with respect to detainees coming down off drugs and managing anger.
- ▶ Staffing is an issue all the time: “So many sickies: staff are burnt out.”
- ▶ A unit-based staff member described his feeling after getting home from a shift as “What the hell have I been through?”

- ▶ It was suggested that fatigue was intensifying the problem and that there is a need for “modified” work processes and for “workplace balance”.
- ▶ An interviewee identified two important issues: morale (“When morale is down, it affects your work performance”) and absenteeism (“There’s plenty of staff on the roster, but they don’t rock up to work.”)
- ▶ “After an incident, it would be good for managers to come down to debrief. All that happens is we get asked, ‘Does anyone need EAP? [Employee Assistance Program]’”

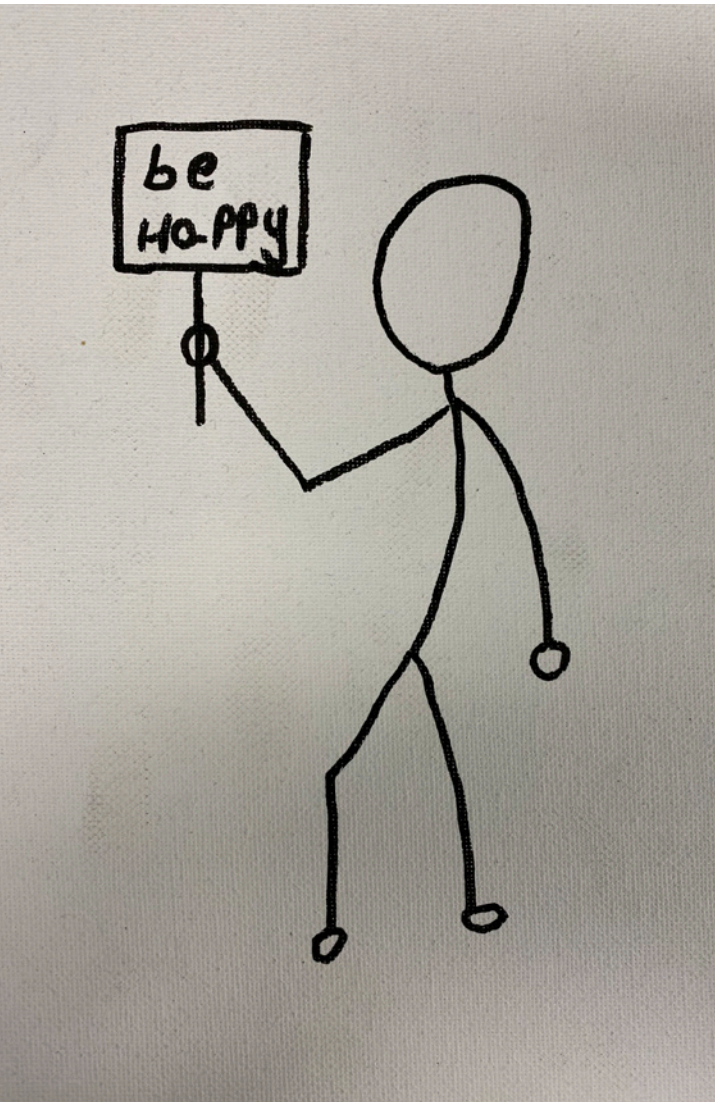
The following statement epitomises the level of frustration felt:

*“We’re getting the wrong stuff from upstairs.<sup>77</sup> We’re scrutinised about the wrong stuff. We can’t get enough staff for one-on-one checks” [e.g., when there is a risk of detainee self-harm].*

*“Staff are just numbers. The way staff are treated by management [shaking his head] ... management tell some staff they are too vocal. No leader has impacted staff. People acting in the role aren’t supported. Morale is gone. We need the right leaders.”*

As noted by a detainee, during an interview: “Workers set the feel” for the shift. They said: “if staff are having a hard day, they shouldn’t make us have a bad day.”

A negative workplace culture and low morale (particularly in an institutional environment) is likely to lead to poorer outcomes for children and young people, for whom staff are required to provide daily care.



ART WORK CREATED BY YOUNG PEOPLE FOR THE INSPECTION

77 Both staff and detainees may refer to AYTC management as “upstairs”.

# PART C

## DISCUSSION

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# 6. CHILDREN AND YOUNG PEOPLE IN DETENTION

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## 6.1 Overview

This part of the report extensively discusses a series of issues that were raised in, or arose from, the Pilot Inspection. It is necessarily detailed to adequately air the views and observations of key stakeholders: primarily detained children and young people; various staff and staff groups; and departmental management. It assumes an understanding of the inherently intersectional nature of matters discussed.

The main filter applied has been our effort to ensure that no respondent or contributor is personally identified. All those whose views are reflected here gave their specific consent.

The following topics are covered:

### *Resources*

This is about whether the objects of the *Youth Justice Administration Act 2016 (SA)* are realistically achievable with the resources provided.

### *Respect and dignity*

This section reports views and observations about the capacity of children and young people to enjoy their fundamental rights when deprived of liberty and detained at the AYTC. It concentrates on two things: respectful relationships and operational interventions (including in relation to privacy, use of semi-naked searches and application of physical force).

### *Aboriginal children and young people*

A consideration of the cultural safety and suitability of the detention process for Aboriginal detainees who are as seriously over-represented here as in other parts of the youth justice system.

### *Multicultural diversity*

Fundamental questions arise about similar issues for detainees from other culturally and linguistically diverse backgrounds.

### *Girls and young women*

Female detainees have specific needs and have suffered the disadvantage of being a minority within the overall AYTC population.

### *Sexual orientation, gender identity and gender expression*

Strong views were expressed about whether and how the AYTC can or should respond effectively and appropriately to the full range of adolescent developmental needs, in an environment some detainees and staff describe as intolerant and unsupportive of diversity.

### *Disability and related needs*

All stakeholders recognised that the system does not adequately cater for children and young people with disabilities (diagnosed or suspected) and a range of psychosocial needs.

### *Very young detainees*

Children as young as 10 can be detained at the AYTC. No-one who participated in the Inspection process suggested this was the best place for these children to be.

### *Dual status: in care and in detention*

At least a quarter of all children and young people admitted to the AYTC are under guardianship of the Chief Executive of the Department for Child Protection at the time of admission.

### *Health and wellbeing*

This part considers the impact of incarceration and access to services, with a focus on medication, drug and alcohol use and detainee mental health.

### *Education and training*

Discussion with a staff focus group from the Youth Education Centre (YEC), supplemented by the views of the 'students' and staff from various functional areas, provided the basis for this section.

### **Identifying and responding to need**

Members of two work teams that have responsibility for youth justice case coordination and management were convened in separate focus groups. This section seeks to capture views from these workers and the young people themselves about this critical area of practice.

### *TCV relationship with DHS/AYTC*

This section records observations from various DHS and AYTC people about how this relationship has developed over the two-year build-up to the Inspection.

## **6.2 Resources**

The Pilot Inspection focused primarily on capacity in relation to staffing (with other matters also identified by participants), with specific questions directed to the key stakeholders that elicited the responses described below.

### **6.2.1 Staff views**

Staff identified various problems and service deficits attributable to a lack of resources, often related to inadequate staffing (overall, with respect to assigned staff ratios, in specific vocational areas and/or in relation to an ongoing problem with absenteeism). When staff were asked bluntly whether the capacity was there to get the job done, the predominant response was a simple "No." For one staff member, the core problem was that the staffing baseline is too low: it is not that resources are being cut, but "there was just never enough" and "I think the Department [DHS] are trying, but we need a bigger base" to deal with inevitable fluctuations in on-site staff numbers.

### **Facility capacity**

The campus consolidation under the Dynamic Model in late 2019 drew attention to problems associated with site capacity and amenity. Aspects of this are dealt with throughout this report (e.g., limitations imposed on female detainees when they moved from Jonal Campus), but other examples were also noted (e.g., "big issues" associated with detainees on regression being held in Frangipani Unit along with those in police custody). For example, a staff member referred to the ongoing status of the Police Custody Unit, particularly the problematic effect associated with it being located in Frangipani Unit on weekends. Management are reactive rather than listening to staff warnings (e.g., that the number of "no mixes" between young people in Frangipani means that detainees inevitably will be on lockdown more frequently, with all of the resultant tensions this creates. Alternatively, young people could be distributed more broadly through the unit if half was not closed off for police custody purposes).

Given the possible formal consolidation of AYTC operations on Goldsborough Campus at some time in the future, it will be important to address issues that became apparent in recent months. This extends to factors such as guaranteed access to outdoor spaces for reasonable amounts of time and flexibility in access to school/library facilities and other spaces to a mixed age and gender detainee cohort.

### **Managing operations**

Several staff members were critical of management who, one stated, "haven't kept pace" with increasing and intensifying demands. Citing a current example, this member of staff said that they have "no idea" about what is happening on the floor. Two other staff members expressed opinions that management do not like "vocal" staff because they raise concerns that can only be addressed through additional resources: "It affects the kids ... 'Modified routine!' Give us the money so we don't have to lock them in their rooms."

A staff member described "risky" processes that they attributed to the level of resources available. They cited the composition of detainee escorts and asserted that escort sizes are sometimes minimised

inappropriately, for example, using only two officers when three would meet requirements (they described a specific situation). The effect of this, they felt, was that staff were under “pressure” to accept higher risks than they should. In this context, they described accompanying detainees to funerals as a “risky” and “uncomfortable” escorting task. Asked if there was a better way this could be done, the staff member said that a private contractor<sup>78</sup> could be contracted for this role but were considered “too expensive”.

### Staffing model

Concerns were expressed about whether the AYTC staffing model, especially the design and management of staffing ratios, works in practice. Exacerbated by problems associated with absenteeism, several staff members raised specific concerns: “There’s supposed to be four staff per unit, but we’re lucky to have three.” One interviewee suggested that it is a constant challenge to guarantee that even basic tasks can be done properly, that the standard 4:1 detainee to staff ratio is not adequate with some detainee mixes and that “two up” is often unworkable (i.e., only having two staff rostered on to that specific unit).

Asked whether these issues had a negative impact on safety at the AYTC, one staff member responded with an unequivocal “Yes ... because if you lock down residents, they’re more likely to self-harm or explode”. Another interviewee expressed a similar concern, suggesting that there can be insufficient staff available to ensure one-on-one support if there is a risk of detainee self-harm.

It was pointed out that while “OPS 3” categorised operational staff are usually youth workers, “OPS 2s” may provide security support for tasks such as visits. This draws attention to what minimum competencies, qualifications or experience should be essential to work with children and young people in detention in relation to specific interactions or work tasks.

### Other resourcing issues raised by staff

Staff raised other important issues in the context of resourcing:

- ▶ Proposals for mandated AYTC female and Aboriginal staffing ratios.
- ▶ Several staff separately suggested that there was a lack of team diversity with respect to some minority groups (notably in terms of sexuality and gender identification). They observed that this made it more difficult to provide “emotion-free and discrimination-free environments” for those staff and detainees who do identify with those groups.
- ▶ Several operational staff suggested that some of their peers are not employed or trained to undertake certain complex interactions with detainees, especially with children and young people who have significant mental health or psychosocial needs, but this occurs necessarily in day-to-day interactions. This opinion about inadequate access to specialised training is canvassed in Part 5.3 of this paper.
- ▶ A corollary of this is the view that insufficient trained staff are available to deal with some situations that may arise.
- ▶ The implications of staffing resources in specialist areas (such as the YJAIS) are noted elsewhere in this report. The point made by operational staff in this regard is that case coordination and related capacities are stretched if there are high numbers of detainees at any one time.
- ▶ A concern was expressed that some new recruits have no background in working with children and young people, let alone those who have experienced trauma (a concern similarly raised by some young people: see 6.2.2 below).
- ▶ Time and resource availability impacts upon the quality of communications across teams and work disciplines as well, at times, as relative views about the value or effectiveness of specific professional paradigms and approaches.
- ▶ One interviewee said that the staffing model meant that police were called in some circumstances where it would be better to have an on-site capacity for such intervention.

<sup>78</sup> G4S is the private contractor currently responsible for transporting detainees to and from the AYTC (e.g., for Youth Court attendance).

- ▶ New staff “don’t know what they’re walking in to”, so “buddying them up” is a practical way of supporting acclimatisation, but this is subject to capacity.
- ▶ Ensuring adequate coverage by operational staff who must accompany detainees when they attend the YEC (exacerbated since the recent campus consolidation) is a recurring problem: there are “only so many staff” to supervise so many classes in school (including case coordination staff). In some situations, unit staff “cannot be released to escort them, so they’re denied schooling.”
- ▶ A matter raised by two staff members was that, in the words of one, “There isn’t time [on] most shifts to do proper case notes.”
- ▶ One interviewee expressed concern about the real capacity to conduct adequate and structured “debriefing” of staff as standard practice.

The passion some staff members felt to do more and better for the young people was expressed most graphically by one staff member who said that “insane funding” is needed to intervene properly. This was discussed in some detail in relation to just one life domain:

“There’s so much shame for their literacy ... there’s kids who don’t know the alphabet, they can’t read. We don’t have the capacity to do that. There’s a simple fix to make these kids excel in life and feel good about themselves.”

The Inspection found that reduced and restricted resourcing has impacted on operations and has therefore inevitably impacted on young people’s best interests in the Adelaide Youth Training Centre.

### 6.2.2 Young people’s perceptions

Young people spoke about a lack of transparency in relation to staffing arrangements and roles. Some shared a view that some staff, “who do the same job, fight to justify their positions” or “create problems just to solve them”, despite, according to others, all having “the same job”, albeit with different titles.

Asked what experience they believed staff had prior to commencing work in the AYTC, children and young people consistently said that staff probably had backgrounds in the military, police or security. When asked if they thought staff had experience working with young people, the consistent response was “No”, with one young person observing that staff were not “trained in understanding our behaviour.” Young people did, however, identify that case coordinators did have this experience and approached their work differently. The TCVU notes that this perspective possibly reflects the fact that case coordinators do not engage in day-to-day behaviour management within the units and operate from a social work framework.

There was consensus that staff who work in the accommodation units should be trained in “dealing with behaviours” and mental health and have a background in therapy or psychology. Further, the young people said they wanted the Centre to employ staff who “understand young people”, have “experience with children” and will be “active” participants in the life of the units (not staff who “sit” and do not engage). This engaged status was exemplified by the initiative of a staff member who, when gym time was cancelled, said, “Guys, if you want a work-out session, let’s do it in here [i.e., the accommodation unit]” and then cleared the furniture and led a session. The participants in the detainee focus group spoke about how much they valued this innovative approach.

### 6.2.3 DHS/AYTC views

DHS described a system based on set staffing ratios in each AYTC unit (subject to detainee numbers); behaviour support officers who work across the campus; and supervisors who manage day-to-day operations (including movements, visits and incident management). Staff are not permitted to work alone.

Interviews both with DHS executives and DHS/AYTC operational management explored whether the Centre’s 1:4 staff ratio was adequate to guarantee detainee safety and supervision as well as ensuring that detainees’ entitlements and rights are upheld. Neither group could advise how often the ratio was achieved, as current systems do not record that

information, but this should be possible when an anticipated “new system” is in place.

The DHS Executive response was that 1:4 is the minimum ratio pursuant to various agreements (including industrial) but that the ratio is often bettered in practice (up to 1:1 in certain circumstances). Given the Centre’s understaffing on some days, the system was described as having inherent “flexibility”, based on the capacity to move staff from other areas (such as the Police Custody Unit); for supervisors to fill in; or to call people in to take on a shift. It was noted that specific activities might also have an impact, such as staff being off site on escort duties.

DHS/AYTC operational management said that the required ratio was achieved “in the vast majority of circumstances” and if not possible, “we will run a modified routine”. It is necessary to be aware of extra demand occurring at times due to such factors as detainees being on “extreme watch”; the demands associated with dealing with “difficult individuals”; and the general need to be responsive in the Centre’s dynamic environment.

## 6.3 Respect and dignity

### 6.3.1 Relationships

The Standard that ‘residents are treated with respect and dignity’ was a guiding consideration for the Pilot Inspection. We asked stakeholders for their views. One staff member suggested that the starting point for staff should be what they “are told early: that their job isn’t to punish the young people. Being in detention already does this.”

Staff interviewees and members of focus groups indicated that they see this as a core expectation but that two factors determine what happens *in practice*. The first relates to attitudes; they indicated that most staff act appropriately but some do not and a few simply do not embrace what the concepts of ‘respect’ and ‘dignity’ mean for their work.

The second factor relates to operational capacity, especially where it relates to resourcing constraints.

Two staff interviewees separately mentioned the requirement that operational staff had to

wear uniforms, one noting that this “sends the wrong signal” and that not all staff signed up to be “guards”. This view was endorsed when we interviewed health professionals who, pointing to the New Zealand model, reflected on the fact that uniforms reinforce “power imbalances”.

When we asked DHS executives about respect and dignity for children and young people, they indicated that detainee wellbeing relied on achieving an “individualised approach [in] a congregate environment” and that the admissions process provides “the scaffolding ... we build from.” DHS advised that the goal is to accommodate culture and community in a layered and complex environment.

Consistent with this theme, one staff member recognised “a struggle” between balancing young people’s individual needs whilst ensuring equality, with the risk that individualised treatment may not seem ‘equal’ to other detainees.

#### Staff attitudes<sup>79</sup>

Staff expressed a view that ‘professionalism’ in the challenging custodial environment is manifested by not over-reacting to possible provocations and managing them appropriately. One staff respondent said that staff generally do this, but observed that with some staff and operational practices, “some don’t work as well as others.”

A theme that emerged from the views of longer-term staff was that attitudes are probably improving but that “we’re behind”, partly because staff have not had the chance to keep up with necessary training (in this context with respect to training that responds to changes in legislation and policy). The implementation of the AYTC’s BSF was given as an example. A couple expressed what might be described as more “old school” views, such as a staff member who reflected that “it’s a big joke to them [detainees] when they come in” compared to “the old days [when] there was more respect and consequences” in a system within which everyone “has to be accountable”. One of these staff members believed that most of the detainees will end up in the adult system: “They say this is a holiday camp.”

<sup>79</sup> Discussion here is complemented by matters canvassed in Part 5 of this report, *Staff Views*.

Not all detainees are automatically respectful to staff. A staff member said that the children and young people “don’t always respect authority” and that at least one staff member is abused every day, being called such terms as “cunts” and “fuckwits”. Abuse is not one-way, with a staff member describing the environment as one in which “there are some beautiful people here, but also some disgusting people—the language!” (this quote refers specifically to the use of racist expressions by some staff members). Similarly, several staff said that discriminatory attitudes extend to culture, gender and gender identity. One staff member said that they did not really feel safe to discuss such issues. Young people echoed this concern when interviewed, stating, for example, that it would not be safe to disclose that you are not heterosexual.<sup>80</sup>

### Operational implications

One staff member reflected that personal issues, as well as systemic ones, can affect staff behaviour, meaning that the detainees’ experiences might depend on how staff “present on site on particular days. Staff with personal issues can impact service delivery here. Generally, it’s okay; depends on individuals.”

An experienced staff member suggested that an essential skill to maintain respectful relations is being able to “keep cool, de-escalate”. Another expressed the view that “there’s a connection between detainees and staff. That’s what’s different from prisons” and that these connections “get us over the line” when things get difficult. They then offered the view that policies and procedures can, at times, be hindrances.

Asked whether detainees are provided with the Centre rules as a matter of course (as required by the Act), we were informed that this might occur at Jonal but not at Goldsborough campus. This staff member suggested that detainees, therefore, may suffer because of inconsistent application of both directions and instructions, with a lack of clear “rules or guidelines” in important areas.

One negative staff perspective was that the Centre’s “reward system”<sup>81</sup> led to detainees attempting to “take advantage” of staff and reacting if they are assessed in a way that leads to the loss of benefits through being dropped in phase level.

### 6.3.2 Semi-naked searches

The *Youth Justice Administration Act 2016* (SA) sets out requirements for carrying out searches of detainees.<sup>82</sup> Detainees may be searched when admitted or readmitted to the Centre (including upon returning from an off-site visit such as court attendance); after a full contact visit; or if a manager suspects that they have something in their possession that is prohibited or may jeopardise the security of the Centre.

The rationale for carrying out searches is to prevent the entry of contraband. By law, semi-naked search procedures require that no child or young person is to be completely naked at any time. Detainees are required to lift their breasts or scrotum for inspection. If a young woman has her period, she is required to remove her sanitary item as part of the search. The AYTC Operational Order 6 (2016), which outlines the procedure, states that young people will be required to “squat and cough” to dislodge any object stored and concealed internally. This potentially harmful practice is prohibited treatment in other jurisdictions due to safety concerns but also for reasons of respect and dignity.<sup>83</sup> One staff member commented on the practice:

*“The squat and cough is degrading and disgusting. We have to go with it because of the operational order.”*

<sup>80</sup> Further discussion of such matters can be found in Part 6.7 of this report.

<sup>81</sup> This is the system in which gaining and losing phase privileges are a key component of the AYTC’s behaviour support framework, the BSF.

<sup>82</sup> *Youth Justice Administration Act 2016* (SA), s.30.

<sup>83</sup> See, for example, ACT Human Rights Commission. (March 2019). *Commission initiated review of allegations regarding Bimberi youth justice centre* (p. 74). <https://hrc.act.gov.au/wp-content/uploads/2019/04/190329-Bimberi-Review-Screen.pdf>

Routinised semi-naked searches are an affront to the human rights of children and young people, and AYTC practice should be revisited to ensure compliance with relevant human rights instruments.<sup>84</sup> The TCV's advocacy for an end to routinised, unnecessary semi-naked searches is a matter of record.<sup>85</sup>

### Impact on vulnerable children and young people

Semi-naked searches can re-traumatise children and young people who have experienced physical or sexual abuse, especially young Aboriginal girls and

women, who have experienced disproportionately high rates of violence and are grossly over-represented in youth detention facilities, including the AYTC.<sup>86</sup> For children and young people with intellectual and/or physical disabilities and/or health issues, semi-naked searches may be more distressing, harmful, difficult or protracted.

One young man we interviewed described how traumatic he had found the semi-naked search due to his history of sexual abuse. A newly admitted young person reflected on how he "had heard" in the community about this search practice and dreaded the event upon admission.

Conducting semi-naked searches on transgender, intersex or gender-diverse children and young people carries a higher risk of limiting their right to privacy and humane treatment.

During the Inspection, two members of the Inspection Team participated in a mock admission, which included a mock semi-naked search. It was apparent that staff conducting the searches were unprepared for and unsupported about how to conduct a search of a transgender, intersex or gender-diverse child or young person. Despite the AYTC housing transgender, intersex or gender-diverse children and young people, no practice guidance appears to have been provided to operational staff. Improvements in this area can be supported by CAMHS, which has links with professionals experienced in gender-diversity work.

There appear to be no amended procedures in place in relation to semi-naked searches of initiated men.

### Failure to maintain required records

The AYTC keeps a log of all searches on admission or readmission. The Act does not require a log for all searches, but only those which are 'semi-naked'.<sup>87</sup>

In the case of semi-naked searches, the legislation requires a record of the name and age of the detainee; the time, date and reason for the search; and the name of the employee who conducted the search. In the course of the Reviews of Records



PRIVACY SCREEN IN THE SEARCH ROOM AT GOLDSBOROUGH ROAD CAMPUS

84 For example, Rule 52 of the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Mandela Rules) requires that strip searches of detainees should be undertaken only if absolutely necessary and that administrations should be encouraged to develop and use appropriate alternatives to intrusive searches. See also Juan E. Mendez. (5 March 2015). *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment* (para. 86(f)). <https://www.ohchr.org/en/issues/torture/srtorture/pages/srtortureindex.aspx>

85 We note official responsiveness to the TCV's concerns and particularly welcome, since the Inspection, the proposed adoption of non-intrusive body scanner technology in 2020.

86 Human Rights Law Centre. (2017). *Total Control – Ending the routine strip searching of women in Victoria's prison* (p 15). [https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/5a287bb50d9297f066fd588d/1512602586016/TC+Report\\_Online.pdf](https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/5a287bb50d9297f066fd588d/1512602586016/TC+Report_Online.pdf)

87 Section 30(3) *Youth Justice Administration Act 2016*. The Act uses the term 'semi-naked'. DHS prefers to use the term 'partially clothed'.

preceding the Pilot Inspection we found that many log entries failed to record the detainee's name, with one unnamed entry being for a semi-naked search of a 10-year-old.

Reviews of the Goldsborough and Jonal campus search logs during the Inspection and preceding periods identified the following:

- ▶ Over the 12-month period preceding the Pilot Inspection, it is estimated that 1087 semi-naked searches occurred.<sup>88</sup> This is an average of almost three a day.
- ▶ Approximately half of all search log entries across both campuses failed to record whether contraband had or had not been found.<sup>89</sup>
- ▶ Three items of contraband were recorded as detected but not documented in a way that indicated the nature of the contraband.
- ▶ Compliance with the requirement to record the method of searching declined: 17% of logs failed to indicate the search method in Term 1 2019, a figure that doubled to 34.8% in Term 3.
- ▶ The completion rate of admission search logs was low. (As these all involve a semi-naked search, they must be logged.)
- ▶ In Term 2, 2019 the Jonal Campus admissions log had a completion rate of 18.1%. That improved somewhat to 24.4% in Term 3.
- ▶ In Term 3 2019 the Goldsborough Campus admissions log had a completion rate of 17.6%, meaning that only one in every five entries complied with the Act.
- ▶ In Term 4 2018, Goldsborough Campus admission logs were complete for 73.6% of entries.

Having incomplete log entries to record semi-naked searches creates risk for both detainees and staff and is a breach of the law.

Concerns were raised about semi-naked searches being conducted routinely rather than being based on an individual assessment of risk following TCVU

reviews of records in the review cycles leading up to the November inspection. DHS and the AYTC responded by reducing their use; during 2019, for example, the AYTC committed to ceasing mandatory semi-naked searches following domestic visits. The TCV welcomed this shift from a routine practice to a risk-informed practice but note that the rate of semi-naked searches as a proportion of all searches across both campuses only dropped to 60.0% in Term 3 2019 (after a high of 68.3% in Term 2).<sup>90</sup> The overall proportion of semi-naked searches remains high compared to analogous jurisdictions.<sup>91</sup>

When discussing family visits, a detainee said:

*"There is a strip search afterwards. I don't like that; you have to cough and squat."*

The Inspection found that the semi-naked search procedure was not appropriately designed to consider the needs of detained young people with a disability, gender diverse young people or the high number of young people with trauma histories. Detainees reported that they were not informed of their rights before a search process and not all recordings were accurate. We are of the view that the number of searches conducted is excessive and these will have adversely impacted upon the dignity of children and young people in a significant way.<sup>92</sup>

### 6.3.3 Privacy and confidentiality

The Australasian Juvenile Justice Administrators Standards<sup>93</sup> for Juvenile Custodial Facilities (March 1999) require facilities to recognise and respond appropriately to the right of each young person to privacy and confidentiality. During 2019, young people consistently raised their right to privacy with the TCVU, as well as during interviews for the Pilot Inspection. This was mainly in relation to the increase in closed-circuit television (CCTV) installation across sleeping rooms at both sites.

<sup>87</sup> Section 30(3) *Youth Justice Administration Act 2016*. The Act uses the term 'semi-naked'. DHS prefers to use the term 'partially clothed'.

<sup>88</sup> This figure includes all admissions because, although a high proportion of admission log entries did not record the search method, it is AYTC practice to require a semi-naked search for all admissions and readmissions to the Centre. The TCV is aware that not all semi-naked searches are logged or correctly logged, so the actual figure would probably be somewhat higher.

<sup>89</sup> Recording whether contraband has been discovered does not appear to be a legislative requirement in South Australia but, given that the risk of contraband is one of the main rationales for semi-naked searches, it should occur as a matter of good practice.

<sup>90</sup> As comparable data is not available for Jonal Campus searches in Term 4, we are not able to comment on the incidence in Term 4.

<sup>91</sup> Other jurisdictions report reduced semi-naked search numbers. The ACT reduced "strip searches" from 50% (in 2016–2017) to 7% in 2017–2018, and the ACT Government has indicated that it has now stopped strip searching children. Western Australia also reports a reduction in strip searches in three prison facilities.

<sup>92</sup> The DHS Youth Justice State Plan was launched in June 2020 and includes a commitment to 'Implement alternatives to partially clothed searches, so that these are a last resort

<sup>93</sup> Note: the name of this group and hence that of the standards have changed recently, with the reference transitioning to "Youth Justice" not "Juvenile" standards.

A staff member raised a concern that the environment did not adequately protect privacy or at times handle sensitive information respectfully. Staff also raised concerns about the ability of young people to see through the unit window to the names board, which amongst other information, details medication required by young people. Other staff views relating to privacy and confidentiality are available in Part 6.14 below.

DHS reports the AYTC is a secure environment that uses CCTV in several areas, including all common areas accessed by detainees, along with most bedrooms and all safe rooms, "to increase the safety of residents and staff". Observation via CCTV was mentioned in the Health Focus Group as a potentially protective factor for some high-risk residents.

In the 12 months preceding the Pilot Inspection, the TCVU raised an ongoing concern that continual

CCTV coverage of shower and toilet areas in sleeping rooms was visible on staff office monitors. In late 2019, the AYTC responded by installing shower privacy curtains (as an interim measure pending installation of a more suitable technology).<sup>94</sup> During the Pilot Inspection, young women referred to getting changed behind the shower screen, which was now an available privacy option. Some staff raised concern that the shower screens impede their ability to safely monitor young people in their rooms.

A number of young women believe that their right to privacy has been breached because they are required to request sanitary products from staff members (and their subsequent disposal). They report then receiving a limited supply which necessitates further requests. As a result, staff know when the young women are menstruating. This is currently a matter under review by both the TCVU and AYTC to ensure a more dignified practice.

In terms of the Centre environment, some young people felt that there was little privacy during family visits in the Open Visits Centre. Several young people wanted to use the private family room space instead as they felt self-conscious that others could overhear their conversations.

Access to rooms for confidential conversations with CAMHS, private providers or those undertaking sensitive work, is limited. The Centre does not currently have multiple options to accommodate these essential interactions.

It became apparent during focus group sessions that service providers operating within the Centre have concerns about the various recording or case management systems with which they must work. For example, DHS staff routinely record on C3MS, whereas Health and CAMHS use a different system, with limited ability to upload case notes to C3MS while in the Centre. Working with discrete information systems preserves client confidentiality but it can also impede information-sharing across departments. Many providers noted that there could be better, more respectful information-sharing across Youth Justice, Education, DCP and Health.

It is understood the DHS Youth Justice State Plan 2020-2023 will address some of these issues.



*AN EXAMPLE OF A SHOWER PRIVACY CURTAIN  
INSTALLED IN LATE 2019*

<sup>94</sup> This screen is not in place for young people considered high-risk or with self-harm behaviours.



**TOP LEFT:**  
VISITOR CENTRE  
GOLDSBROUGH  
ROAD CAMPUS

**BOTTOM LEFT AND  
RIGHT:** THE VISITOR  
PLAYGROUND HAS  
REPORTEDLY NOT  
BEEN ACCESSIBLE FOR  
YEARS.

### 6.3.4 Restrictive practices

The TCV considers *restrictive practices* to be any management of a child or young person that restricts movement or limits physical freedom to a greater extent than simply holding the child or young person in custody. These interventions may include (but are not limited to) placement in isolation, segregation or safe rooms; the enforced application of handcuffs, spit masks, restrictive canvas smocks, leg wraps or direct physical restraint, the use of pods and reduced stimulation.

In the month prior to the Inspection, the Ombudsman recommended that spit masks be prohibited in this State. They are due to be phased out by the end of June 2020.

Restrictive practices were not a major focus of the Pilot Inspection, primarily because scrutiny of these events was such a significant part of Visiting Program and Reviews of Records reporting undertaken by the TCVU in the 18 months prior to the Inspection.<sup>95</sup> Restrictive practices and use of force are now the subject of an independent review commissioned by DHS but are also being considered in a piece of work undertaken by the Public Advocate looking at their use across Government agencies. These reviews are welcomed by the TCV.

During Pilot Inspection interviews, young people were invited to share their views about restraint or use of force. Most said they did not have any comment or had not been involved in a restraint. Comments offered by eight young people included that restraint was used if someone “gets abusive or tries to fight” or run away. One reflected that if they did something “wrong”, they might be restrained; another young person said he “felt like shit” when restrained by staff.

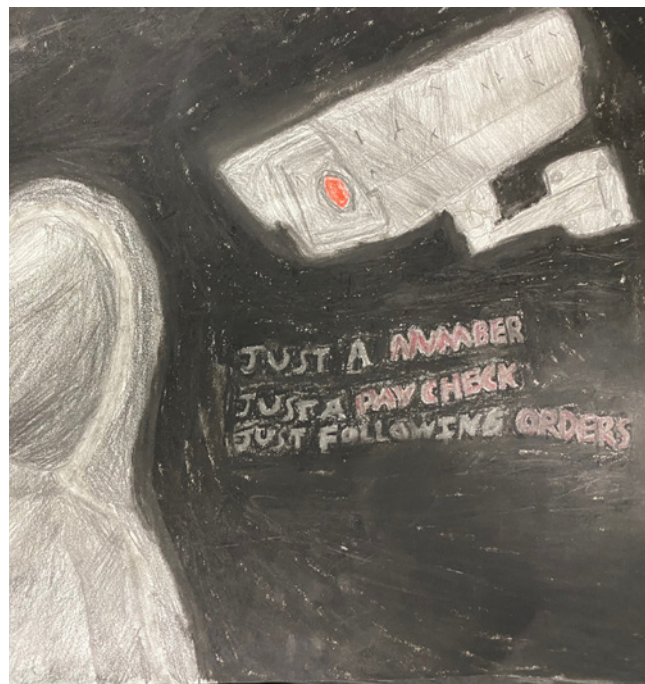
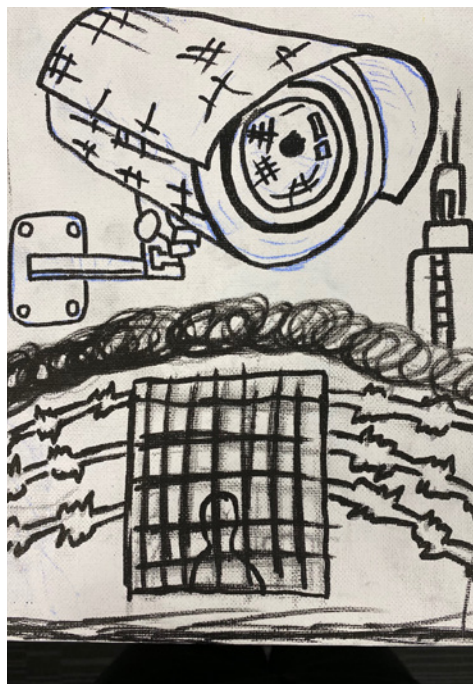
Staff who were interviewed from mental health services said they would welcome the opportunity to provide input into post-incident plans and routines to support young people following serious incidents. However, this requires consistent and reliable methods for information-sharing between services or departments.

In terms of the experience of isolation, one third of young people reported that being sent to their room<sup>96</sup> to be alone was a “consequence” of negative behaviour in the AYTC. Most young people reported that instead of having a calming effect, spending time alone exacerbated their feelings of anger, dysregulation, insecurity, sadness and loneliness. Staff also echoed concerns about the use of isolation, stating that isolation “is a curse: so much paperwork is required” and that recourse to “time-out as a behaviour management strategy should not be

<sup>95</sup> [www.gcyp.sa.gov.au/the-training-centre-visitor/](http://www.gcyp.sa.gov.au/the-training-centre-visitor/)

<sup>96</sup> These “consequences” relate only to actions imposed during the day, not to young people’s responses to being sent to their room earlier than scheduled in the evening for disciplinary purposes.

ART WORK CREATED  
BY YOUNG PEOPLE  
FOR THE INSPECTION



captured by this, as it diminishes staff capacity to ‘defuse’ issues arising between young people.” Staff also felt that time in rooms without the active presence of an adult did not help young people settle.

One third of young people specifically used the term “Frang” or “Foxtrot”<sup>97</sup> to describe the Frangipani unit that separately houses young people<sup>98</sup> receiving “consequences” for misbehaviour (often periods of isolation when on Restricted Routines). While this unit is described by AYTC staff as the Supportive Actions Unit, detainees did not express a perception of the unit or their experiences in it as being ‘supportive’.

### 6.3.5 Restrictive practices for children with high needs

The TCV welcomed the review of restrictive practices mentioned above as there is an urgent need to review how these practices impact on children and young people with high or complex needs arising from trauma or disability. There are no specific provisions in legislation or AYTC operational orders that mandate any specific or systematic considerations

when applying restrictive practices to children with disabilities and experiences of trauma. These needs are currently managed in an ad hoc manner.

For example, over a 12-month period,<sup>99</sup> a total of 17 individual children or young people were detained in safe rooms for a total of 40 occasions. Of these, 12 were male (detained 34 times) and five were female (detained six times). The youngest child was 11 years old,<sup>100</sup> and the oldest was 18. The average age of children detained in safe rooms per instance was 14.12 years, and the average age of children detained in safe rooms per child was 14.85 years.<sup>101</sup> This increase in age when taking the average per instance of safe-room use, is due to certain younger children being detained on a higher number of occasions.

It is a matter of longstanding concern to the TCV that data about the prevalence or diagnosis of disability, mental ill-health or trauma among the detainee population is unavailable. As a result, we have not been able to ascertain how many of the 17 children and young people detained in safe rooms had a disability, complex needs or experiences of trauma. However, TCVU staff ascertained from the

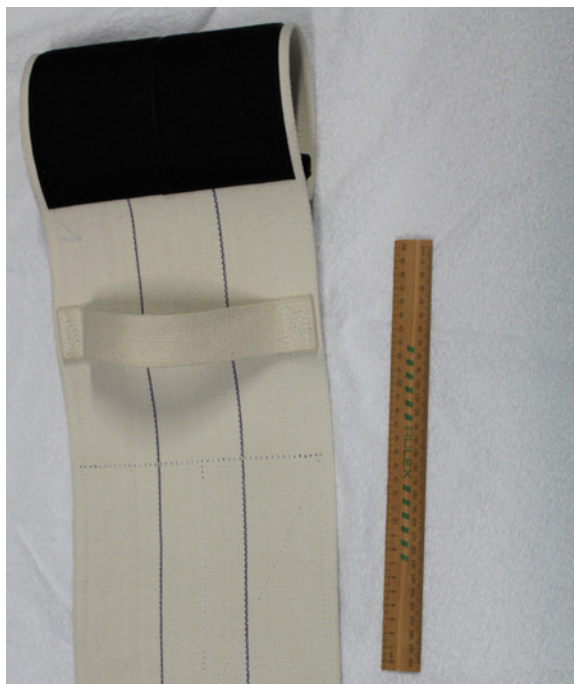
97 The term Foxtrot is a phonetic call sign (one of many used within the Centre) and is understood to originate from military and radio broadcasting.

98 This unit only houses young men. Young women are housed for regression/protection actions in their unit (Blue Gum).

99 1 October 2018 to 1 October 2019

100 This is contrary to the *Youth Justice Administration Act 2016* (SA), s.28(2), which states that a child “under the age of 12 must not be detained in a safe room.” The AYTC has since issued a notice to staff to advise that in no circumstances should a child under the age of 12 be detained in a safe room.

101 Note that this data has accounted for one child twice because they had a birthday while in the Centre.



MECHANICAL RESTRAINTS USED IN THE CENTRE - HANDCUFFS AND LEG WRAPS

Review of Records process that at the very least, three quarters of the children and young people detained in a safe room had suspected, self-reported or confirmed autism, attention-deficit hyperactivity disorder, an intellectual disability, depression, histories of self-harm and/or experiences of trauma.

The most common reason staff reported for detaining a child or young person in a safe room was to 'maintain order' (24),<sup>102</sup> followed by to 'maintain security' (six),<sup>103</sup> 'damage to property' (three),<sup>104,105</sup> 'harm to others' (two),<sup>106</sup> and to 'maintain security and order' (one). Three instances were recorded as "other".<sup>107</sup> One instance had no reason recorded on the running sheet.<sup>108</sup>

Staff identified these reasons when deciding whether to use a safe room during incident management. There appear to be no systemic or legislated prompts that require staff to consider the impact and implications of detaining a child with a disability in a safe room at that critical point. Staff report that

safe rooms are often used for the safe removal of handcuffs, being a preferred venue because there are no sharp bed corners that can be problematic where a restraint is being used when removing cuffs.

The longest time a young person was kept in a safe room was 122 minutes, and the shortest was seven minutes. The average time was 47 minutes<sup>109</sup> and the median duration was 43 minutes. One instance of detention in a safe room did not have the duration recorded on the running sheet.<sup>110</sup> In six of the 40 safe room detentions (15.38%), the young people were not checked at the required minimum 5-minute intervals.<sup>111</sup> In one instance, the running sheet did not record whether these checks took place.<sup>112</sup>

Legislated prescriptions for permitted periods of safe room use apply to the chronological (rather than developmental) ages of children and young people. While checks by staff are mandated, communication is not. Some safe room records detailed verbal engagement, but other records had very little

102 This is allowed under the *Youth Justice Administration Act 2016* (SA), s.28(1)(c)(i).

103 This is allowed under the *Youth Justice Administration Act 2016* (SA), s.28(1)(c)(ii).

104 This is allowed under the *Youth Justice Administration Act 2016* (SA), s.28(1)(b).

105 Only male residents were detained for damage to property.

106 This is allowed under the *Youth Justice Administration Act 2016* (SA), s.28(1)(a).

107 Given that the *Youth Justice Administration Act 2016* (SA), s.28(1) provides an exclusive list of reasons for detention ("A resident ... may only be detained ... if ..."), this description of "other" suggests that safe rooms were used for improper purposes not permitted by the statute.

108 This is contrary to the *Youth Justice Administration Act 2016* (SA), s.28(6)(a)(iv).

109 This was rounded to the nearest minute.

110 This is contrary to the *Youth Justice Administration Act 2016* (SA), s.28(6)(a)(ii)-(iii).

111 This is contrary to the *Youth Justice Administration Act 2016* (SA), s.28(5)(b).

112 This is contrary to the *Youth Justice Administration Act 2016* (SA), s.28(5)(c).

evidence of dialogue with children and young people during their safe room detainment. This raises questions about what this experience is like for any child, let alone children with complex needs arising from disability and trauma.

There is a need for an immediate review of the use of restrictive practices specifically as they affect children and young people with higher level needs. The terms 'to maintain security' or 'maintain order of the centre' are very general and the frequent reliance on these terms as justifications for restrictive practices is of concern. This TCVU observation has been fed into the recent independent reviews of restrictive practices referred to in 6.3.4, above.

These terms should be a focus for consideration in any review of the relatively new Act.

### 6.3.6 Anti-bullying measures

All but one young person interviewed during the Inspection reported bullying as a persistent feature of daily life in the AYTC. Some shared that they had been bullied, and every young person had witnessed bullying. Reasons given for bullying included young people's appearance; cultural identity; the nature of their crime; the temperament of the young person and unit "pecking orders". Due to the persistent and sometimes underhanded nature of bullying, detainees doubted that staff could effectively manage it, despite staff often doing their best to intervene in situations that came to their attention.

Staff responses to questions about access to and use of detainee-to-detainee anti-bullying strategies suggested that no systematic approach is taken. It was reported that the capacity to intervene is "limited" and that staff are not "geared up" adequately; instead, staff have "open slather" recourse to techniques such as time in rooms or application of "consequences".

At the DHS Executive level, there is an expectation that staff will manage bullying and inevitable pecking order issues. Their response indicated that the aim is to do this in a nuanced manner through a trauma-informed approach. The BSF should enable emotion management and general self-regulation with support by skilled staff who also have been

through MAYBO training. DHS is also interested in ensuring that "bad associations" from outside relationships do not "play out" in the Centre.

Mediation is a process the Centre adopts to manage relationships that may break down between young people (usually post-incident). Given that mediation is typically characterised by the principles of voluntary participation, balanced power between participants, confidentiality and an impartial mediator, the AYTC process is perhaps better described as the application of a general restorative approach (as opposed to mediation) that seeks to resolve conflict and restore relationships following disputes.

Reports from young people about this restorative process were consistent in suggesting that it is perceived to be superficial and not effective at restoring relationships in any meaningful way. The primary focus, according to young people interviewed, was to allow young people to mix and to prevent future fights:

*"I've had one mediation. It was a waste of time. Just bullshitting really: you are not making amends. It was more just putting you on the spot."*

*"Staff help me feel safe. If I've got a beef against someone, I have to do mediation with them so nothing happens and there is no fighting. You talk, you say sorry, you become friends."*

Staff had mixed views about the restorative process. For one, mediation was problematic, as it diminishes staff's "authority". Other staff saw mediation as "a good thing" that is happening more often. The capacity to call on Behaviour Support Officers (BSOs) to mediate a situation was mentioned as a potentially useful intervention.

One staff member was sceptical about the application of mediation: "How many times has that

113 See discussion in Part 6.13

actually occurred? What stats would they have on this?" The TCVU observes that processes such as the development of DRMPs or RIC<sup>113</sup> forms do not routinely offer restorative options.

According to staff, the default response to relationship breakdowns between detainees or between a detainee and a staff member is to either move the staff member concerned, or the young person, to another unit. For one experienced staff member, this is pragmatic, given that not removing the staff member is likely to lead to a situation requiring physical restraint, whereas mediation might be effective "to unpack what happened". Another staff member described their disappointment in the management of an incident where the affected staff member was moved without their side of the story being heard and with the sense that they had been judged by their superiors. The broad view of participating staff was that they do want to repair broken relationships with detainees but that this can be undermined if staff are moved to a different unit. Staff reflected that young people might learn a valuable life lesson if they could participate in "restoration processes" and learn effective ways of trying to repair relationships.

One operational staff member said that the system should be responsive to what is best for individual detainees, especially if they have a disability or need specific communication techniques. However, this is difficult at the operational level because "there simply isn't the time available" to study relevant case notes (even if they contain relevant information) to work out what might be best. Moreover, unit staff are not briefed appropriately about relevant detainee characteristics that might need to be managed (e.g., if a young person has cognitive issues).

It was noted that while restorative practices are presumptively part of the YEC system, they are not used optimally, and more teachers should be trained in their use.

Providing young people meaningful and reflective support to restore relationships must be a key component in any rehabilitative and trauma informed model.

## 6.4 Aboriginal children and young people and cultural support

It is well documented that the proportion of Aboriginal people in prisons and training centres far exceeds their representation in the general community. The question of whether and how the health and social needs of Aboriginal children and young people in AYTC are met is central to this section of the report. We focus on interventions, programs or activities that aim to connect young people to their communities and give them opportunities to learn about and understand their cultural identity and reduce future contact with the criminal justice system.

The TCV's finding from the Pilot Inspection is that the needs of Aboriginal children and young people are not adequately met under the current programs, plans and staffing offered within the centre and that the requirements expressed in the *Aboriginal and Torres Strait Islander Youth Justice Principle* are not being adequately observed.

**Recommendation 6 responds to these issues**

The AYTC employs a Cultural Advisor who is responsible for cultural advice and guidance for all Aboriginal children and young people in the Centre. There is a perception that this role also has responsibility for all other 'cultural' groups admitted to the Centre but this is not specified in the current Role Description. The Cultural Advisor role has generally been filled by an Aboriginal person but it is not an Aboriginal-specific position.

CAMHS also provides considerable therapeutic, clinical and cultural support to Aboriginal young people in the Centre, via a through-care model implemented by both Aboriginal and non-Aboriginal staff. This includes the Journey Home component of the service, provided by a multidisciplinary team to young people living in metropolitan Adelaide. CAMHS also facilitates the longstanding Journey to

Respect program and the Yarning Circle<sup>114</sup> for young men, and (more recently) Women's Business for young women.

### 6.4.1. Detainees' views

There was consensus among Aboriginal detainees that it is very important for them to produce, practise and maintain knowledge, culture and kinship ties while at AYTC. Several said that, although they know they are Aboriginal, they have not developed cultural links due to a lack of cultural programs and/or inability to make contact with extended family members. For example, one young person explained that while he feels he can be a "proud Aboriginal person", he needs more programs specific to Nunga people to help achieve this goal. Another reflected on his perception that there is a direct relationship between cultural competence, the ability to cope on the outside and the likelihood of reoffending: "I've just got stuck in a rotation I can't break." Some felt they had been unable to maintain existing links during their time in custody.

Three Aboriginal detainees said that they had not seen an individual cultural plan for their care. In response to a query about whether they had ever been prevented from cultural participation at AYTC,

two detainees referred to funeral attendance. Informal means of cultural connection centred around talking to friends, with one young person stating, "I sometimes use language."

CAMHS cultural and clinical interventions were clearly welcomed by young people, with many detainees valuing and looking forward to visits from their CAMHS workers.

Those detainees who did acknowledge being involved in cultural activities or programs heavily referenced the Yarning Circle. The importance of oral communication (storytelling) as a means through which Aboriginal and Torres Strait Islander people make sense of their lived experience is well documented. Furthermore, Geia et al. (2013) note how yarning "enables Aboriginal and Torres Strait Islander people to reconstruct their lives in new ways while at the same time keeping their cultural integrity intact".<sup>115</sup> At AYTC, there were mixed views regarding the efficacy of the Yarning Circle to build relationships around topics of interest:

*[I've] been to Yarning Circle and it was good.*

*It's pretty good, and you find out what is happening on the outside.*

GENERAL UNIT LIVING SPACE



114 This is run in conjunction with the AYTC. This practice has been generally described as "a focussed, directed discussion based on principles of respect, inclusion and democratic participation" in Carlson, B., & Frazer, R. (2018). Yarning circles and social media activism. *Media International Australia*, 169(1), 44

115 Geia, L.K., Hayes, B., & Usher, K. (2013). Yarning/Aboriginal storytelling: Towards an understanding of an Indigenous perspective and its implications for research practice. *Contemporary Nurse* 46(1), 15.

*They don't even do Yarning Circle right: we just run down our brother boys!*

*[The worker] sits in the middle waiting for us to talk; we just sit in silence. They did it better at Jonal.*

A smaller number of young people also acknowledged participation in the Journey to Respect program which encourages honest communication around possible solutions/alternatives to the use of violence.

Detainees argued that having a good connection to the Cultural Advisor was critical to the success of any and all programs, with one young person adding, "But I don't."

The TCV is aware that the Cultural Advisor position is sometimes used to maintain or support staffing ratios in a unit, where there are insufficient other staff. (In this regard it is notable that the first duty specified in the Cultural Adviser's Role Description is 'Maintaining an appropriate level of security in a custodial environment'. The second is 'Providing cultural knowledge which supports and respects the values of Aboriginal culture and focuses on the wellbeing, caring and healing of Aboriginal residents' and the third is 'As a member of a multi-disciplinary assessment and case coordination team plan, implement and monitor services and programs that enhance problem solving and coping capacity for residents'.) It potentially causes role conflict if a person who is in an advisory and support position for the detainees is also required to manage behaviour. This raises concerns about how the detainees perceive the role and to what extent that is compatible with a duty to focus on the 'wellbeing, caring and healing of Aboriginal residents'.

One young man believed that the "white kids get better treatment than us".

Young Aboriginal respondents suggested that cultural connections or programs at the AYTC would be improved if the following suggestions were taken up:

*[They] should get more Elders in.*

*More programs [than just the Yarning Circle].*

*Do more sports programs.<sup>116</sup>*

One young person stated that he is not interested in exploring his cultural background, as he is not committed to his culture.

Some detainees reported being unable to talk to staff at the Centre about confidential matters because the staff share information. For example, one detainee said that if they have an issue relating to culture, "I wait until Monday or Tuesday, as CAMHS are in." Another detainee agreed that CAMHS feels "separate". Similarly, young people argued that having more Aboriginal staff would help, as would having dedicated spaces where residents could "go and talk with Nunga people".

## 6.4.2 Staff views

### Programs and Activities for Detainees

Staff provided considerable feedback about the nature and availability of Aboriginal cultural programs and activities aimed at supporting the development and growth of each young person. Despite serious over-representation, some Centre staff held the perspective that access for Aboriginal detainees in this sphere was seen to be greater than equivalent opportunities for children and young people from other culturally and linguistically diverse backgrounds. Several staff specifically expressed concern about the nature and availability of Aboriginal cultural support programs and activities. One said that this is "such an important issue" for a lot of young people, yet there is no consistency

<sup>116</sup> This comment is in reference to the Mark Davis basketball program, through which the young person acquired a backpack

with how community and cultural connection is maintained. Moreover, there appears to be a lack of clarity for Centre staff about who should be involved in the cultural programming process and how this should be coordinated (key stakeholders referred to in this context were AYTC, DHS Youth Justice Services, CAMHS, MAYFS, the YEC, and MYHealth). It was unclear from interviews how familiar Centre staff are with DHS/AYTC obligations arising from the Aboriginal and Torres Strait Islander Youth Justice Principle.

Staff members acknowledged that removal from connection to culture had an immense impact, especially on children and young people who arrive at the AYTC from regional and central Australia. One expressed it as follows: while “young Nungas [from Adelaide] are connected to each other here”, similar peer support probably will not be available for a young person from the APY Lands or other regional communities. This is exacerbated when English is a second or more distant language. It was mentioned that the AYTC environment did not support detainees to learn language and cited a need to incorporate practical alternative mechanisms, like flashcards or interpreters, when working with young people not competent with or confident about their command of English.

Staff drew attention to an effect of current staffing models—inadequate planning for and ongoing connection with detainees once they leave the Centre (some of whom may return, sometimes multiple times): “We used to do follow-up with residents.” There was a view that while staff may develop close relationships with detainees (“We’re his family”), these are severed when the detainees turn 18 and/or leave custody. There was a view that this is another example of young people being set up to fail, as DHS is not seen to do enough to bridge the gap by directly supporting the young person’s return to the community. A staff member referred to a lack of “continuity of relationships”.

### **Contact with Elders and the community**

Connection to community was explored in all Pilot Inspection engagement activities. Staff expressed some strong opinions in this context. Connection to culture, country, community and Elders demands more than is currently being done: “We could

connect a lot better.” One staff member described this issue as a “missed opportunity”, while another queried why the Grannies Group “got banned”, given that their support is so powerful for detainees.

The lack of an organised on-site presence of respected Elders was raised by several staff members: “I feel that I don’t see any coming in. What are they? Where are they?”

It was felt that, at times, some detained Aboriginal young people may see being Aboriginal as bad, a scenario in which access to Elders is critical, as they are “healers, cultural healers and teachers”. Programs run by Aboriginal Elders or community members through Tandanya and Tauondi College were given as exemplars.

Comments from the most experienced staff members indicated that programs were more limited than had previously been available in both Magill and the former Cavan facilities: “We used to have a lot of facilitated programs back in the day. I can’t think of any now – Yarning Circle?”

Several contributions were more positive about what is currently being done, with one staff member stating that “we definitely have a fair few things” (but did not provide details of what these might be). Another staff member said that should a detainee request specific access to community support, this can be facilitated (but was unsure if this is adequate). The recently updated Journey to Respect program, while still “not fitting” participant needs, now responds to their input. A long-term staff member suggested that Journey to Respect, which used to be “compulsory”, was not currently offering “guidance” due to its relatively unstructured nature. At the same time, the young people get bored because they usually “have done it before!”

It is good to be able to note here that the Youth Justice State Plan released in June 2020 promises to deliver an Elders Visiting Program and other community engagement opportunities.

### **Maintaining Family Connections**

The reality, expressed by staff, is that it is “near impossible for some families to get here.” This makes support mechanisms such as access to extra phone calls important, especially when there has

been a death in the family. Another staff member pointed out that phone contact with some remote communities can be problematic, given that there may only be one phone that may not provide immediate access to relevant community members in any case. However, staff also reflected on the potential sensitivity related to “connection” in some specific circumstances (e.g., if a detainee feels “shame” or believes it is too hard for family to visit).

### Improvements?

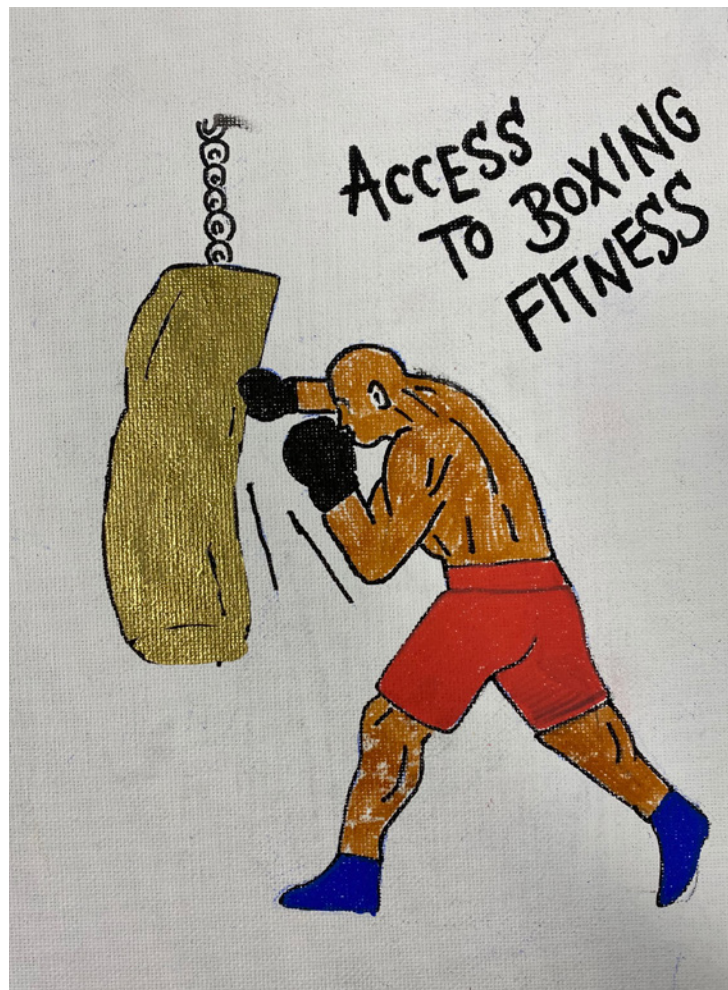
Staff members suggested consideration of the following improvements:

- ▶ Focused training for staff is insufficient and should be increased, especially given the “high representation of Aboriginal residents”.
- ▶ More programs are needed that address the needs of the younger boys, and girls and young women.
- ▶ While programs may be available during the week, there should be more direct “presence down here to help these boys” (i.e., for the detainees to have access to one-on-one culturally safe conversations in the units). Another staff member said that it is “left up to [operational staff] to do culture: it’s lip service.”
- ▶ Several staff referred to the role of the YEC in relation to developing Aboriginal cultural awareness and opportunities, with several matters being raised:
  - All detainees would benefit from access to cultural opportunities and a cultural plan.
  - There should be greater coverage offered in the curriculum.
  - A practical suggestion was that the young people could be given the opportunity to research their own family histories.
  - No student should “get told off for speaking language in school.”
  - Two staff members pointed to what they saw as deficient provision of staff cultural opportunities and training. One specifically challenged the commitment of education leadership to addressing the issue, situating this as part of a generally unhealthy work environment subject to substantial staff turnover.

### 6.4.3 Aboriginal staff views

Feedback from Aboriginal staff indicates a degree of dissatisfaction with their role and opportunities at the Centre. The attitudes of management towards the importance of culture in operational processes was seen to have varied significantly across time. Nevertheless, Aboriginal detainees were reported to have “a good connection to Nunga staff”.

Frustration was expressed about feeling as though they are “bound by the red tape of the white system”, a system that “sets the kids up to fail”. It was also reported that they had to contend with the implications of potentially close family connections to



ART WORK CREATED BY YOUNG PEOPLE FOR THE INSPECTION

detainees and pressures arising from the community/relatives. Staff were of the view that more could be done to support them in this regard, including the provision of “cultural days off” and the backfilling of Aboriginal positions when they become vacant, especially in key areas such as education.

The need to employ more Aboriginal staff across all functional areas was keenly felt (e.g., “We don’t have many Aboriginal case workers”). One staff member referred to the AYTC having only one Cultural Advisor who will inevitably struggle to keep up with demand. Another common theme to emerge was that Aboriginal staff do not appear in leadership positions,<sup>117</sup> and pathways for their career advancement are not readily defined. One Aboriginal staff member noted the challenges facing the ATYC to recruit and retain Aboriginal staff and that doing so would require significant work to ensure their input is not only obtained but acted upon.

Aboriginal staff spoke about taking on extra cultural support duties and having to deal with “casual racism” from other staff. Several non-Aboriginal staff also referred to racism as something that needs to be addressed in an environment in which “some staff call it out; others don’t”. Even where views are not expressed bluntly, the suggestion is that AYTC has a culture in which “stereotypes” are “systemic”. For example, it was suggested that when Aboriginal detainees speak language it is “assumed they’re planning something” and that such assumptions constitute structural racism.

Specific complaints were made about existing organisational inertia that was seen to prevent attention being paid to things like the annual ANZAC celebrations making “no mention of Aboriginal soldiers who fought” or young people being “made” to celebrate Australia Day, with detainees criticised if they appeared to be flat or disengaged.

#### 6.4.4 DHS/AYTC views

In written comments provided for the Pilot Inspection process (*Attachment 5*), DHS emphasised the importance of the *Aboriginal and Torres Strait Islander Youth Justice Principle*, noting that it requires the participation of family and community in case planning, assessment and decision-making for Aboriginal young people. DHS then asserts that a “range of strategies are in place to ensure services are culturally appropriate and support Aboriginal children and young people in the justice system to maintain connection to their family, culture and community”, pointing to the operation of the multi-agency Youth Justice Aboriginal Advisory Committee (YJAAC) to provide cultural advice; “cultural engagement mechanisms that consider cultural needs: for example, the Circles of Trust engagement tool”; a Cultural Champions Network; and “specific cultural activities and programs, such as the Yarning Circle and Journey to Respect”. Moreover, the “Youth Justice Strategy<sup>118</sup> under development has a strong focus on addressing the over-representation of Aboriginal young people in the justice system”.

DHS also identified broad examples of “cultural, ethnic or racial support” in its written response. These included an on-site cultural advisor at the AYTC (required to respond to all cultural groups, not Aboriginal specific<sup>119</sup>); Aboriginal staff, a diverse workforce and a general youth justice senior Aboriginal advisor; access to cultural programs and activities such as the Yarning Circle program and Journey to Respect program provided by Child and Adolescent Mental Health Service (CAMHS); the Circles of Trust cultural engagement tool; cultural awareness training for staff; and celebration of various religious or cultural events, including Sorry Day, Reconciliation Week and NAIDOC week events and Ramadan. In response to an associated question about cultural programs and activities to which Aboriginal detainees had access in the period since 1 October 2018, the following were identified:

- ▶ Youth Justice collaboratives with agencies such as CAMHS provide programs such as the Journey to Respect Aboriginal and Torres Strait Islander-specific intergenerational violence prevention

<sup>117</sup> A situation that has begun to change in 2020, since the Inspection, with important new appointments being made within DHS and DHS Youth Justice Services. However, the situation at the AYTC itself has not yet changed.

<sup>118</sup> Released in June 2020.

<sup>119</sup> An assertion not borne out in the Aboriginal-specific job description applicable to that position as provided to the TCV.

program (developed for Aboriginal males aged 15 years and older and not available for under 15's).

- ▶ The Yarning Circle is facilitated by the AYTC cultural advisor. This activity is tailored for Aboriginal males.
- ▶ CAMHS runs Women's Business for female detainees, in a similar format to the Yarning Circle.
- ▶ "Other activities include a Reconciliation Week event and activities accessed by all AYTC residents, a NAIDOC week event and activities accessed by all AYTC residents and learning about culture and history."
- ▶ "Case planning to meet individual needs includes agencies such as Incompro."

As noted earlier, DHS Youth Justice Services has acknowledged that "improvements can be made in relation to the provision of programs and activities at the AYTC and that this is an ongoing priority." No other information was provided by DHS with respect to the TCV's question about how any programs or activities had regard to detainees' age, gender, maturity and individual cultural journeys (see section 1.4.3).

The appointment in 2020 of senior Aboriginal leadership within DHS is welcomed by the TCV, creating the opportunity to improve how the ideas and voices of operational Aboriginal staff are obtained and considered in planning and programs that impact directly upon detained Aboriginal young people.

#### 6.4.5 The view from Education

A focus group convened with staff from the YEC identified some constructive engagement processes undertaken with the Aboriginal community; with Tauondi Aboriginal Community College; and through discussions with relevant people about language options (with specific mention of the Ngarrindjeri community). Some emphasis was also placed on a "promising" imminent coordination meeting with DHS.

Various points were made in the focus group in response to a TCVU question about whether participants thought that the individual cultural identities

of Aboriginal detainees are recognised and their beliefs and practices supported, respected and upheld:

- ▶ An Aboriginal Education Teacher was appointed for next year [i.e., 2020]; this increases capacity so that there will be a "team".
- ▶ There is a current collaboration with a university, working through what may or may not be culturally appropriate matters for which the YEC can take responsibility.
- ▶ The Yarning Circle was mentioned, as was an analogous option for girls (with no details).
- ▶ There is some capacity to access interpreters: namely, up to four hours per week, with a pool of already cleared interpreters available on call. (It is not clear whether this allocation is for all or only Aboriginal-language interpretation.)
- ▶ It has been necessary at times to provide a 1:1 support SSO in the classroom (to sit next to a student with no or minimal English and "do what they can" to assist).
- ▶ The YEC does not have what other schools have (i.e., a "First Phase English Unit").
- ▶ Some staff members referred to a recent example of detainees (for whom English is a second language) using Aboriginal language in class, with the fact that that teachers did not know what they were discussing being an illustration of the complexities that can be involved with classroom management.

The view expressed was that that the provision of a single AYTC Cultural Advisor position is not sufficient to meet the needs of Aboriginal children and young people (a perspective that is echoed with respect to the support needs for detainees from other culturally and linguistically diverse backgrounds). It therefore may be beneficial for DHS/AYTC to consider establishing an Aboriginal liaison team to improve Aboriginal children's and young people's access to cultural support, education, connection and programming.

## 6.5 Multicultural diversity

The TCVU was monitoring whether the rights and needs of children and young people from multicultural communities were being observed or met in the Centre in the period prior to the Inspection in a context in which there is a diverse multicultural profile among detainees. Children and young people as well as staff raised relevant matters during interviews.

Guaranteed access to interpreters is necessary during the admission process and throughout the custodial period to ensure understanding, participation and non-discrimination for detainees who do not speak English. We are advised that interpreters are provided during or just after admission, but it is clear that it is not routinely provided for purposes such as post-incident debriefing, internal exchanges or formal discussions between the AYTC and a detainee.<sup>120</sup>

We have been told of situations where the AYTC has relied on other detainees and staff to act as interpreters. Such a practice potentially breaches confidentiality and carries significant risk. It is illogical and unreasonable for a young person to be given 'consequences' for involvement in an incident if they have not been provided with AYTC rules and expectations (and details of their rights contained in the Charter) in a language they can understand. This practice also undermines the provision of a safe system in which detained children and young people can feel confident to potentially disclose abuse in an institutional setting.

Despite a clear message and values expressed by DHS leadership to the contrary, concerns raised in the course of the Visiting Program and the Pilot Inspection suggest that the AYTC environment tends to discourage the speaking of languages other than English, with instances described where particular staff members have discouraged or forbidden it.

When the TCVU reviewed the programs for multicultural youth,<sup>121</sup> it appeared that only an African Support Group was facilitated twice during Term 2 in 2019. Other access and practices, such as those necessary to meet Ramadan requirements

or access to an Imam, generally were provided in response to individual requests (although there is organisational responsiveness to some fundamental measures such as access to the Koran and appropriate food).

The TCVU provided formal individual advocacy on these matters for young people during 2019.

Ongoing TCVU work, reinforced by the Inspection, indicates that serious consideration is required to ensure that children and young people from culturally and linguistically diverse backgrounds are provided with appropriate care, treatment, support and the opportunity to understand and enjoy their rights while in detention.

## 6.6 Girls and young women

### 6.6.1 Staff views

Several staff commented on the situations of girls and young women and believed that these detainees' needs were not always met. One staff member said that while there are female staff on all shifts, perhaps there should also be a specialist role established similar to that of "Cultural Advisor".

Running the girls' unit was said to create distinctive demands. Unlike male detainees, the girls and young women are housed together, across the 10 to 18 age span and irrespective of their status categories (from assessment phase to long-term sentenced to those on Restricted Routines and both on remand or sentenced). Staff made the case that that it is not practical for a standard three-person staff team to manage this situation properly, while another staff member said that while "they'll be safe", working in that environment generated complex, time-consuming tasks and warranted additional staff resources. Staff told us that these demands only increase when multiple young women with complex mental health needs are placed on long periods of remand and required to live in close proximity.

Staff made several suggestions about measures specific to female detainees, some of whom are

<sup>120</sup> The TCVU was advised that the purchase of electronic translator devices has not been funded.

<sup>121</sup> Programs available between 1 October 2018 to 1 October 2019.

already sexually active. They referred to detention as an opportunity to educate young people about contraception, pregnancy and the realities of parenting. The TCVU noted in a Review of Records that parenting interventions/courses were run for two individual young women over the preceding 12 months.

Sometimes only male staff are rostered on to the female unit. This was the case on the first Saturday and Sunday afternoons of the Pilot Inspection (despite female staff being on site in other units).<sup>122</sup>

### 6.6.2 Female detainees' views

Female detainees are a distinct minority within the AYTC. Those interviewed made instructive comments about their experiences in detention.

One young Aboriginal woman described saying hello to a young male from her community as "being respectful" but was upset because she had been assigned extra chores as a result of this communication.

Another young woman said that "I feel invisible in here" but noted that access to nursing staff was helpful because "it feels good to talk to someone about your problems."

#### Insensitive management of personal matters

As noted in 6.3.3 above, young women were concerned about maintaining their privacy in a monitored environment, one saying that, "I have to get changed behind the curtain [for privacy]." Other interviewees mentioned that "you have to sometimes ask male staff for embarrassing, private stuff" and that there is a requirement to use the intercom when requesting a sanitary item: "Everyone in the office hears you ask."<sup>123</sup>

Responding to a question about what respect meant to her, a young woman said that to feel respected she must feel comfortable. She described a situation where she had requested that the blinds be down when she showered but this was refused: "I don't feel comfortable with the blind up."

#### Operational practices arising from the merger of two campuses

As the Pilot Inspection occurred soon after the merger of the two AYTC campuses, day to day practice issues arising from the merger were of major concern to the young women:

- ▶ It was pointed out that they had been kept in their unit all day until 7 pm during the Inspection, which would not have happened when they were housed at Jonal Campus.
- ▶ Girls and young women cannot have a personal visit or attend a medical appointment if boys are already in that space. (This was one of a several matters raised in relation to the rule against any mixing of genders).
- ▶ There are "different rules" for boys and girls. For example, the girls are only allowed to use the left corner of the oval and are not allowed to use the boys' side of the Centre.
- ▶ Since the move to Goldsborough, the girls' and young women's allocated unit is surrounded by an opaque fence that obscures light and views, in contrast to the more open fence screening the young men's units.
- ▶ One detainee, comparing Goldsborough to Jonal campus, observed that "the reflection room smells and is covered in graffiti; that is not respectful."
- ▶ A polite request was made for a netball ring (as there are only basketball rings).<sup>124</sup>

A young woman told us there should be more than just one female unit, so that girls and young women could "move around—like the boys do." The practice of consolidating female detainees in a single accommodation unit, with ages ranging from 10 to 18, also occurred at Jonal Campus, where the female detainees previously had expressed similar views.

#### Unsuitable clothes

A young woman described their crop tops (which are used as bras) as uncomfortable and not supportive. Another young woman (after saying the underwear is "alright, not great") said the crop tops are either too tight or loose: you can "see everything or it hurts" (due

<sup>122</sup> It is positive to note that changes to the rostering process in 2020 have sought to ensure that two female staff are now present on all shifts in the female unit.

<sup>123</sup> DHS has been taking practical steps in 2020 to address these concerns, with ongoing dialogue happening with the TCV about these matters.

<sup>124</sup> This has since been rectified.

to lack of support) when running at the gym. Problems with the underwear provided have previously been raised by the TCVU on behalf of the young women.<sup>125</sup>

One young woman said she “hates” the clothes provided and that she feels “ugly and uncomfortable”. Another young woman said it was “unfair” that they had to wear blue polo tops, while another said they want both boys and girls to wear the same colours.

Young women have access to a hair straightener and basic toiletries (dependent on phase level).

### **Educational disadvantages**

Concerns were expressed about perceived disadvantages in educational opportunities and amenities:

- ▶ “I want to do SACE cooking. Do we get this as girls?”
- ▶ “We ask, ‘Can we use a piece of gym equipment?’ but get told by staff, ‘No, that is for boys only.’”
- ▶ One young woman, responding to what she saw as diminished amenity after the female detainees were moved from Jonal campus, said that the multi-faith room (which was then being used for the girls’ classes) is “too small”.
- ▶ “We can’t go to the drink fountain!”
- ▶ The carpets “are covered with piss and spit” in the time-out room.

Female detainees mentioned restrictions on contact in educational settings, with one asserting that it is “not normal for anyone at our age to not mix”, and another that staff are “too worried” about communication between boys and girls.

## **6.7 Sexual orientation, gender identity and gender expression**

The acronym SOGIE (sexual orientation, gender identity and gender expression) is used here to help capture the complex nature and potential interplay of characteristics that might concern or impact upon a developing young person being held in detention.

### **6.7.1 Adolescents: identity and gender/sexual development**

Placing children and young people in detention does not change their fundamental developmental needs; it simply situates that ongoing development within an artificial environment.

The psychosexual development of children and young people has been described as follows in a recent Scottish report:

*Psychosexual development is a normal and necessary part of human functioning. Children and young people learn what, why and how relationships function from their very earliest days of life. Socialisation is an ongoing process influenced by myriad factors - some internal and some external.*

*Sexual exploration and experimentation are normal parts of child and adolescent development and are important in shaping each child’s sexual identity and their understanding of how to conduct healthy and appropriate social and personal relationships with others. In particular, adolescence is a time of the most significant physical, emotional and developmental change. It can be a period when sexual drives are at their most urgent, but some young people have less experience and understanding of their own and others’ sexuality and sexual boundaries. Rule breaking, sensation seeking and lack of consequential thinking are relatively commonplace amongst adolescents. This may impact on sexual choices, as will*

<sup>125</sup> More appropriate underwear options are being explored in discussion between DHS and the TCVU in 2020.

<sup>126</sup> Expert Group on Preventing Sexual Offending Involving Children and Young People. (January 2020). *Prevention of and responses to harmful sexual behaviour by children and young people* (p. 22). <https://www.celcis.org/files/9215/7979/4306/expert-group-preventing-sexual-offending-involving-children-young-people-prevention-responses-harmful-sexual-behaviour-children-young-people.pdf>



CLOTHES THAT MAKE UP THE STANDARD UNIFORMS, WHICH MOST CHILDREN AND YOUNG PEOPLE REPORT TO NOT LIKE DUE TO BLAND COLOURS.

*the ways many young people now do this exploration (with sharing of intimate images and other online means being more accessible).<sup>126</sup>*

This context raises the question: how, if it is to be a rehabilitative community, does the AYTC meet the fundamental developmental needs of detained children and young people? To what extent is, or can, appropriate gender and sexual development and “socialisation” be nurtured in a detention environment, particularly given the AYTC’s current model, which includes a strict rule against mixing or contact between the female and male detainees?<sup>127</sup>

One AYTC staff member, referring to the situation of a detainee who had self-identified as gay, questioned whether he really had “anyone to tell” about what was going on for him while in custody.

Discussion at the Education Focus Group suggested that detainees “get little to no support” in relation to gender or sexuality issues while they are in detention. In the context of an individual detainee’s gender-identification issue that arose during the Inspection week, it was suggested that staff needed training about how to answer detainees’ questions and what to do if such issues arose in the accommodation units. Staff told us that some

<sup>127</sup> This group considered implications for children and young people in secure care. See Expert Group on Preventing Sexual Offending Involving Children and Young People. (January 2020). *Prevention of and responses to harmful sexual behaviour by children and young people* (p. 42). Scottish Government. <https://www.celcis.org/files/9215/7979/4306/expert-group-preventing-sexual-offending-involving-children-young-people-prevention-responses-harmful-sexual-behaviour-children-young-people.pdf>

comments made by a limited number of staff were offensive and showed an intolerance for the requirements of gender sensitivity and respect.

Recommendation 4 from the TCV report *Visiting Program and Review of Records: Adelaide Youth Training Centre, Term 1 2019* (October 2019) can be noted in this context:

*That the AYTC/DHS consult with appropriate agencies/experts to establish how best to provide programs and individual support for residents who have sexuality or gender identity related developmental needs.*<sup>128</sup>

As noted in discussion of detainee health and wellbeing later in this report, there is a perception that more sexual health education, and developmental support in relation to safe relationships and parenting support is required. It is the view of the TCV that this is fundamental to any rehabilitation model but particularly one that deals with many children who have experienced trauma which is often related to such areas.<sup>129</sup>

## 6.7.2 Views of detainees and staff

### Detainees' views

Asked whether they felt they could “really be yourself” in the Centre, only one of several interviewees said yes. Most were equivocal, with one saying that “You can’t be yourself in here: you have to act tough and act happy.” Another said that you “need to pretend to be tough so other kids won’t target you. I feel pissed off. I want to take off my mask and just be who I am.”

Various comments were made about some diversity groups, including comments that a gender diverse young person would “probably get picked on a lot” or that “they’d get bullied”. Similarly, a young person said that if you were non-binary, “you’d be getting picked on.”

One interviewee said that “some kids get picked on for acting gay” and another described the AYTC environment as homophobic. Asked whether they had someone they would trust to talk to about

a highly personal problem or issue, three young people said yes, with two stating, “There are some safe people to speak to” and “Yes, younger staff.” Positively, another said that “staff keep things confidential.” In relation to gender identity, a detainee said that he “felt okay about that sort of thing” but would talk to a case manager if there was something he wanted to deal with.

A contrasting opinion was also offered: “No, I don’t even feel safe talking to staff, BSOs or CAMHS—things are gossiped about and used against you” in an environment in which “nobody wants to work together or talk to each other.”

### Staff views

Several staff commented about LGBTQI and gender-diverse detainees, with an experienced staff member saying that “we should be on the front foot, but we’re not”. Another described the AYTC’s management of these issues as “embarrassing”. A related perspective was that the AYTC should operate and plan on the basis that young people with gender or sexuality identity-related issues will feature as a regular part of the detainee population.<sup>130</sup>

Staff expressed some strong opinions about an overall lack of diversity in areas such as sexuality and gender. The Centre’s culture was described as “homophobic” and “unsafe” in this context and that “more people should be comfortable about being out.” Specifically, there is no-one who is “trans ... for the kids to connect with” and no guarantee that detainees will have someone to talk to in an environment in which staff attitudes about gender diversity were described as “poor”.

Staff members made some suggestions for immediate action:

- ▶ Put “a big rainbow flag out front” in order to draw attention to the current problematic environment
- ▶ Change YEC paperwork so a detainee is no longer required to identify a specific binary gender

128 Training Centre Visitor (October 2019). *Visiting program and review of records: Adelaide Youth Training Centre, Term 1 2019*.

129 As was noted, for example, in Part 6.3.2 above in relation to the lack of suitable arrangements for ‘diverse’ young people in the Centre admissions process.

130 Currently, access to professionals experienced in gender-diversity work can be facilitated for detainees, especially through the support of CAMHS workers at the AYTC.

- ▶ Establish a committee to consider how to address hostile attitudes (“but people are fearful of the topic here.”)

Several staff expressed strong concerns about language used daily in the Centre, suggesting that it needs to change to be more inclusive and culturally responsive. It was alleged, for example, that some staff explicitly use terms such as “gay” and “poofter” in front of detained children and young people. This was considered serious enough to warrant the proposal that a working group should be established to develop ways to respond to unacceptable language in a culture which accepts “micro-aggressions all day—they’re not addressed.”

The view was expressed that gender bias is implicit in the management of some AYTC operational activities, such as the allocation of off-site escorting tasks, with a preference for male escorts. It was suggested that this sort of male-preference bias is reinforced when resourcing constraints lead to two persons being used for what should be a three-person escort.

The Inspection team found that the area of gender diversity and sexual orientation requires an urgent focus, staff training and the amendment of some procedures.

## 6.8 Disability and related needs

### 6.8.1 The rule, not the exception?

The TCV is required to pay particular attention to the needs and circumstances of detainees who have a physical, psychological or intellectual disability.<sup>131</sup> Feedback about disability we received during the inspection tended to also reflect upon a range of associated psychosocial needs.

It is recognised that disability may be closely aligned with mental ill-health. For example, people who have autism spectrum disorders also experience anxiety and/or depression much more commonly than in

the general population.<sup>132</sup> Many children and young people in youth detention facilities have experienced trauma, abuse and/or neglect. Psychological distress alters cognition, emotions, behaviour and physical responses.<sup>133</sup> Challenging trauma-related behaviours that do not meet the criteria of a disability are common amongst detainees and can be exacerbated through placements in youth detention.<sup>134</sup>

Although such behaviours may not constitute what is required to attract a formal disability assessment, they nevertheless contribute to the levels of complexity that AYTC staff must consider in their interactions and case planning for detainees.

The Inspection was the first opportunity to speak with detainees about disability and how it affected them or other detainees at the Centre. The TCVU ascertained that a small number of detainees who were interviewed stated they had a disability; most also said they had been diagnosed.

DHS has advised that it is unable to collect data about disability, creating an impediment to the TCV meeting the statutory requirement mentioned above. This inability suggests a limited systemic capacity to understand and diagnose, let alone provide for, the range of needs of children and young people in detention who have a diagnosed or undiagnosed disability. It also limits understanding of factors applicable to specific populations and the ability to respond appropriately to those needs (e.g., by providing specialist disability training to staff).

DHS has established a Disability Champions Network to identify how to best ensure National Disability Insurance Scheme (NDIS) access for youth justice clients. DHS now uses the term *disability-related needs* as a catch-all that covers diagnosed, undiagnosed or suspected disabilities.

In its written input to the Inspection process, DHS identified the Disability Champions Network as a recent achievement:

*AYTC staff adjust work practices to accommodate specific requirements for each resident and when identified as necessary. The*

<sup>131</sup> Youth Justice Administration Act 2016 (SA), s.14(2)(b)(iii).

<sup>132</sup> Maskey, M. et al. (2013). Emotional and behavioural problems in children with autism spectrum disorder. *Journal of Autism and Developmental Disorders*, 43, 851–859.

<sup>133</sup> Malvaso, C. et al. (2018). Adverse childhood experiences in a South Australian sample of young people in detention. *Australian and New Zealand Journal of Criminology* 0(0), 16.

<sup>134</sup> McFarlane, K. (2015). Care-criminalisation: The involvement of children in out of home care in the NSW criminal justice system. [Doctoral dissertation, University of New South Wales], 165.

*Youth Justice Disability Champions Network facilitated a practice forum for Youth Justice staff with disability experts. The Youth Justice Assessment and Intervention Service [YJAIS] multidisciplinary team pilot project initiative aims to strengthen service responses and ensure alignment to best practice. Further, Youth Justice is working with the National Disability Insurance Agency to facilitate in-reach planning for young people at the AYTC.*

YJAIS conducted a thorough assessment process with detainees for the AYTC Screening Project (undertaken in April 2018). This project found that, from a sample of detainees, approximately nine out of 10 of the AYTC population had disability-related needs, including speech and intellectual impairments.

To build the AYTC's capacity for responding to children and young people with disability-related needs, YJAIS report they have undertaken the following measures:

- ▶ coordinated an AYTC staff survey to enquire about disability training needs. As a result, DHS leadership understands this training is welcomed and essential, particularly around sensory processing. This training is now a priority;
- ▶ provided a continued presence at the At Risk Intelligence Group (ARIG) and the Incident Review Committee to apply a disability lens to the behaviour/issue being discussed;
- ▶ provided Behaviour Support Plans to assist with behaviour support in units;
- ▶ advocated for a move from a "prison to a care facility" to recognise the complex needs of children and how they can best be managed;
- ▶ attempted to promote consistency in care across teams;
- ▶ developed positive workplace culture, whereby adults adapt and are equipped to manage disability or trauma behaviours (as opposed to viewing these as a problem the child or young person needs to fix);
- ▶ built partnerships with Autism SA and Telethon Kids Institute;

- ▶ looked at specifically designed accommodation spaces for young people with different needs;
- ▶ built the capacity of the YJAIS team to assist with future diagnoses;
- ▶ provided advocacy through Youth Justice Services' Strategy, Policy and Reporting unit to enable NDIS in the AYTC.

Inspection interviews with staff and detainees indicate there is currently an over-reliance on detainees self-identifying or on staff perceiving the existence of a disability. This can be upon entry to the AYTC, during the initial admission assessment (which is not comprehensive and takes minutes to complete), or from subsequent behaviour in a unit or in school. Should a disability be identified, it is not clear that this will necessarily trigger a process to enable access to targeted support, particularly if there is no formal diagnosis to pursue NDIS support. Regular operational realities such as staff shortages and implications relating to the amalgamation of the two campuses may impact upon matters (e.g., routine provision of disability services by external providers).

The AYTC behavioural framework and operational system still appear to assume that disability is more the exception than the rule. The YJAIS project is an encouraging step towards addressing the internal system changes that are required to uphold the rights and interests of young people with disabilities, especially in relation to case management and restrictive practices. The AYTC needs to ensure the YJAIS work has sufficient resources to both address the disability-related care, treatment and control needs of individual detainees, and disability-associated behaviours that may have a significant impact on them and their fellow detainees.

### **6.8.2 Staff views**

Staff report that the AYTC's responsiveness to disability has improved but is still not handled well. Some reflected that it is a system that "tries, but it always comes down to resources, money." The identification of a detainee who may have a disability, on admission, was considered problematic in that supervisors "do the intake form here; in prisons, it's done by a nurse."

Responding appropriately to disability was a considerable concern, which was raised by most

staff members who participated in the Inspection. One staff member remarked, "Disability? I can't remember the last person in here [to provide sufficient support for detainees with a disability]; there's no staff training."

A staff member referred to some detainees with significant disabilities, where AYTC staff "know the triggers" and "environmental factors" that impact upon their behaviour but are not provided with "what is required" to manage things properly.

Staff also emphasised the link between disability and mental ill-health in many detainees. There was concern that some were so mentally unwell that staff considered their detention inappropriate, stating that "we can deal with wheelchairs ... but it's the mental health: this isn't the right place." A lack of disability and mental health training for staff (especially BSOs who write plans to support young people's behaviour) was a common concern, with one staff member stating, "What are we providing [for detainees with disabilities]? Monopoly and board games?" Staff also expressed the view that training in working with young people experiencing psychosis and psychotic behaviour is urgently needed. A lack of training was a theme amongst staff generally at the AYTC and not just those in operational roles.

Focus groups gave us further insights into staff perceptions about the treatment of detainees with disabilities while in detention (with more detailed discussion of mental health-related issues at 6.11.6, below).

The Health Focus Group drew attention to the high proportion of detainees with intellectual disabilities and voiced concerns about the limited capacity for detainees to be assessed in relevant domains. Staff held the view that while responsiveness to disability has improved, it is still not handled adequately. As an example, they suggested that support for those with a disability should come from an understanding of the functional impact of the disability and using this to inform behaviour management.

Education staff commented that they "can't cope" with children and young people who have needs that are potentially at either end of a continuum. Those who excel academically are not properly

supported and there are others who cannot cope with academic norms. One staff member felt that it is a waste of time teaching some detainees standard level maths when all they can manage is vocational training or programs such as art, music and horticulture. A sensory room was nominated as something needed in the YEC, whilst one detainee suggested that "there should be a disabled unit in here like they have in schools."

Education staff also raised concerns about a lack of training and support to work with detainees who have been diagnosed with autism and ADHD. Operational staff also noted that education staff need more awareness around the needs of those with a disability. The example provided was that one detainee needed to bring their weighted blanket to the YEC, but this was refused by education staff.

The Inspection found that it was necessary to first identify a disability before an individualised care plan could be developed and consistently implemented by all parties working with the child or young person.

*Recommendation 8 is relevant to disability and related needs*

## 6.9 Child detainees (ages 10 to 14)

One interviewee told us, "When I grew up there was no money, no food in the fridge or the cupboard – I broke into people's houses for food".

*"When I was 10, I was locked up. I've spent three birthdays over there [Jonal campus] and two in here. The first time, I was 10. It was very scary.*

*I was with 18- or 20-year-olds when I first came in. I remember walking into a hallway, going into my room [and hearing] 'Yes, that's my uncle, my "nigga", my little mate. Where you from? It was pretty scary.*

*Apparently, when I was over there [Jonal], the staff say I was crying. I wrapped myself up in a pillowcase: I was inside it."*

We were provided with very little information about focussed support for younger boys and girls detained in the Centre (i.e., 10- to 14-year-olds), with one staff member suggesting that the approach was simply reactive, with no specific support programs on offer.

Another staff member described how some younger detainees end up being repeat detainees, pointing out that this attests to the truism: “Once in the system, always in the system.” They noted that this longevity in the system did not seem to influence the management of certain individuals in specific contexts, giving the example of the YEC not being prepared when a detainee reacts badly to being offered the same thing they received in previous periods of detention in the Centre.

A young woman reflected on her perception of safety when in her earliest admission to the Centre:

*“When I first came in at 12 years of old, I was in the games room: they [other detainees] would threaten me ... I was scared of them and I was too scared to tell staff: one was 17 years old.”*

The AYTC does not have a peer or buddy system, an approach used in some analogous institutions to support younger detainees as they come to terms with the Centre environment.

## 6.10 Dual status: In care and in detention

The Inspection explored the situation of dual status children and young people: those in detention who are also under guardianship of the Chief Executive of DCP pursuant to the *Children and Young People (Safety) Act 2017 (SA)*.

On an average day during 2018–19, almost one third of children and young people detained in the AYTC had been in care when they were admitted.<sup>135</sup> DHS did not provide exact data on the number of young

people under guardianship during Inspection week. Many more detainees had a history of involvement with the child protection system without being formally in care at the time of their admission. Most of those in care at the time of admission lived in residential care when out in the community, and more specifically, in large congregate care units that have housed up to 12 children or young people.<sup>136</sup>

It was noted that every girl or young woman at the AYTC during the Inspection period was from a residential care facility: As one staff interviewee noted, “that’s concerning and alarming.”

The situation of these children and young people was stated evocatively in the Health Focus Group:

*“Trauma and disability sets guardianship kids aside. They get no visits when there’s a prestige to having family visits. They all know each other from ‘resi’ care. They don’t trust easily. They’re vulnerable to exploitation—running from or running to?”*

Children and young people in care are particularly vulnerable when entering the youth justice system as they are more likely than the non-care cohort to display a broad range of social disadvantage indicators. They are more likely to have experienced familial incarceration, physical injury requiring medical treatment and unwanted sexual experiences, all while having no close friends and unsettled accommodation and unemployment histories.<sup>137</sup> Another researcher drew attention to exposure to adverse childhood experiences, with domestic and family violence, drug and/or alcohol abuse, poor mental health or the death of a significant person being common amongst dual status children and young people.<sup>138</sup>

Understanding these experiences is critical for informing treatment and rehabilitation, noting what some observers see as the exclusion of care considerations in sentencing in the youth justice system which is contrary to recognition in common

<sup>135</sup> For more detailed data, see the Training Centre Visitor. (September 2019). *Training Centre Visitor Annual Report 2018-2019* (p.8) <http://www.gcyp.sa.gov.au/training-centre-visitors-annual-report-2018-19/>

<sup>136</sup> Four of these large congregate care units exist in South Australia. DCP has agreed to cap placements at six residents, but these units continue to have the capacity to house 12.

<sup>137</sup> McFarlane, K. (2015). *Care-criminalisation: The involvement of children in out of home care in the NSW criminal justice system*. [Doctoral dissertation, University of New South Wales], 82.

<sup>138</sup> Malvaso, C. et al. (2018). Adverse childhood experiences in a South Australian sample of young people in detention. *Australian and New Zealand Journal of Criminology* 0(0), 17.

law and some legislation that some defendants are recognised to have special needs.<sup>139</sup>

DCP, DHS, SA Police (SAPOL) and the Youth Court are all aware of the tendency to criminalise children and young people in State care, yet little coordinated planning or responsive action seems to occur.

One dual status detainee compared their bedroom in detention at the AYTC negatively to that in their residential care unit in the child protection system, saying "I love my [residential care] unit, but at the end of the day, it's jail in here" and "Our rooms look like a jail; the AYTC campus looks like a university."

Another young person mentioned the situation of fellow detainees who were under guardianship: "They don't get help. I'm friends with them; their attitude is 'I've never got help, so why would I get help now?'"

We were told that staff can often "pick up" that a detainee is from a residential care environment, with one claiming that they have a "perception of entitlement ... if they've come from resi" and are "rude and abusive". Another reflected that detainees who are also in care often had inconsistent allocation of DCP support workers. They added that, in comparison, detainees "get over-serviced in here" and that there can be "issues" if guardianship orders conclude while a young person is still in detention.

Operational staff indicated that they usually only know that a detainee is from the care system if told by a detainee. They said the same thing in relation to what might be included in their child protection case plan (assuming the young person even knows). Staff recognised that they might be able to access some relevant information if they took the initiative to seek out files or approach Case Planning (who can access the child protection C3MS system) to assist. However, following this up was unlikely for reasons as diverse as time and resource availability and confidentiality issues. (We note that DHS/AYTC staff must have specific approval to open and explore DCP files). Another staff member said that unit staff would not know a young person was on a child

protection order and that staff just assume all young people admitted have had traumatic experiences.

With respect to these dual status young people, an experienced staff member said, "we don't know enough. We don't do transitions well - transitioning out. Why do they keep coming back?" Another staff member suggested that it might be a good initiative to organise meetings for Charter Champions (in relation to the *Charter of Rights for Children and Young People in Care*) who work at the AYTC.

Staff reflected that systemic barriers and attitudes prevented the needs of dual status children and young people being met, with 16- to 18-year-old detainees often "labelled by multiple systems and placed in the too hard basket". Support from DCP was described as "dropping off" once detainees enter the Centre, which means that "assertive advocacy" may be required to secure DCP involvement for their clients in the AYTC (with support from DCP-allocated workers from country areas identified as a particular problem).

A new report from the Queensland Productivity Commission Inquiry into Imprisonment and Recidivism helps us understand the nexus between child protection and youth justice detention, neatly summarising contemporary thinking about critical factors:

*Victims of childhood maltreatment are at increased risk of subsequent youth justice involvement (Baskin & Sommers 2010; Bright & Johnson-Reid 2008; Widom et al. 2006). Studies in Queensland (Stewart et al. 2015, see below) and South Australia (Malvaso et al. 2017) found that the strongest predictors of a criminal conviction in adolescence or young adulthood are recurrent, prolonged and sustained abuse, and placement in out-of-home care.*

*According to research by the Australian Institute of Health and Welfare (AIHW), 47.7 per cent of those under youth justice*

<sup>139</sup> See Norrish, S. (2009). Addressing the special needs of particular offenders in sentencing. *The Judicial Review*, 9, 267-287. "The exclusion of care considerations in the criminal jurisdiction is contrary to the recognition in both case law and statute that some defendants might quite properly be regarded as having special needs, such as youth, Aboriginality, mental illness, intellectual disability or cognitive impairment, physical disability or other health problem, experiences of domestic violence or sexual abuse, custody of dependent children, drug addiction, homelessness, unemployment, a lack of education, that the sentencer should consider" (Norrish 2009).

supervision also received child protection services (AIHW 2018e, p. 6). Those under youth justice supervision were 9 times as likely to have received child protection services than those without youth justice involvement. A quarter of those in out-of-home care had been subject to youth justice supervision, 16 times the rate of the general population (AIHW 2018f, p. 16).<sup>140</sup>

**Recommendation 10 refers to detainees who are under guardianship orders and in detention**

### AYTC/DCP communication

Case coordinators from the AYTC reported that information-sharing with DCP is improving, that residential carers at times provide guidance about how they manage young people in the community and that AYTC reciprocates in terms of the young person's period of detention. Connections and relationships with DCP may be "great and very collaborative", while others "need work". They described a common aim whereby both parties seek to develop "a common-sense approach for dual-ordered young people."

The picture presented was that too many DCP workers do not visit "their" young people once they are in the Centre and often do not check in with them until it is almost time for them to leave detention, while those DCP workers who do attend may not visit consistently.

Discussion in the Case Coordination Focus Group indicated that it is up to case coordinators to drive collaboration and that they are constantly having to communicate with and educate people (i.e. DCP, families, friends or carers) about what is done in the Centre and what needs to happen for the young people. They thought that it should be a common responsibility, bolstered by effective communication, to ensure that detainees who are under guardianship know where to go for assistance and who is doing what for them.

While acknowledging that he was not in a position to know whether the interface between DHS and DCP works well or not for those under guardianship, a unit-based staff member suggested that he and his colleagues could assist communication if they were enabled to answer simple questions that the children and young people might raise in this context.

It is our view that DCP care plans should be implemented as far as possible while a 'dual-involved' child or young person is in custody, or at the very least, adapted to reflect the interim goals. It was not apparent how or if this was consistently occurring for children and young people in care.

## 6.11 Health and wellbeing

### 6.11.1 The impact of incarceration

A standard question posed in Inspection interviews with staff was whether detainees' physical health is improved or impaired by their detention. While respondents at times moved between mental and physical health issues, we have separated these for reporting purposes.

The majority view was that health improved, with one staff member saying that entering the AYTC "is coming into an oasis" for most detainees because they get access to the care, services and education they do not get outside. Other staff indicated that the AYTC "improves so many of their ailments" or that detainees "definitely improved. They come in here on drugs, skinny, dirty." Some staff alluded to social determinants: "It depends on the kid. Some don't have access to health [on the outside]. We may get a kid in whose parents are rich and they'll be fine," compared to "Some of the young fellas come in a bit rough". Staff described some detainees putting on weight due to overeating because of "better" food: "Some put on 30–40kg in custody." Some "motivated" detainees improved their physical fitness.

Counterinterviews were also expressed. One staff member bluntly said that detainees' health was "impaired", while another said that the detainees' health is "going downward", especially due to

140 Queensland Productivity Commission. (August 2019). *Final report: Inquiry into imprisonment and recidivism* (p. 61). <https://qpc.blob.core.windows.net/wordpress/2020/01/FINAL-REPORT-Imprisonment-Volume-1-.pdf>

“reactive, not planned” programming and access to mental health services. The effect of this is that the AYTC is better viewed as “a holding centre” rather than a training centre with rehabilitative functions.

An additional, and worrying, perspective was offered in the Health Focus Group, where reference was made to the “number of” post-restraint injuries and that these “have physical and emotional ramifications”.

Specific situations were described that caused concern for staff, including the following examples:

- ▶ There are “dangerous” implications associated with working with a detainee with diabetes

- ▶ Medical attention must be ensured after a fight (the detainee must be seen by a nurse within 24 hours).
- ▶ One staff member suggested that we “just look at yesterday’s incident” in which a detainee with a broken jaw and concussion had to wait for hours for ambulance attendance (due to triaging by the ambulance service). The staff member said, “That’s just not good enough in my opinion”.



*YOUNG PEOPLE HAVE ACCESS TO LEISURE ACTIVITIES, BUT ACCESS CAN BE AFFECTED BY PHASE LEVELS AND BEHAVIOUR ROUTINES*

### 6.11.2 The Health Focus Group and health and wellbeing needs

The Health Focus Group identified issues and themes that we found instructive, including the following:

- ▶ Health care should be an operational priority. The removal of two allocated operational staff to facilitate health appointments has impacted on access to health services.
- ▶ More services with a broader remit should be offered on site. The examples given were MyHealth, including in relation to sexual health (with a different staff member describing sexual health education as “missing” from the Centre); a broader range of dental services; drug and alcohol programs; optical services; and physiotherapy.
- ▶ The State has a “24/7 duty of care in a place of detention”, and services should reflect this obligation.
- ▶ Specific groups of children and young people have specific needs within the overall detainee population.
- ▶ Complex comorbidities should be expected and better assessed to impact upon day-to-day detainee management.
- ▶ *Health is holistic*, which means that it extends to matters such as basic living skills (from cooking and budgeting to how to use an ATM). Frustration was expressed that a request had been made over 12 months earlier to establish a relevant day release program to address the institutionalisation of some detainees and teach them essential life skills. Some young people are detained for years but long-term detainees still get released without simple life competencies.
- ▶ Detainee assessments should cover both physical and broader psychosocial factors. Data management and compatibility should facilitate cross-system efficacy (especially DHS, Health, and Child Protection): “It’s all fragmented: none of the data systems talk to each other”.
- ▶ The imminence of the new Youth Treatment Orders model has major implications.

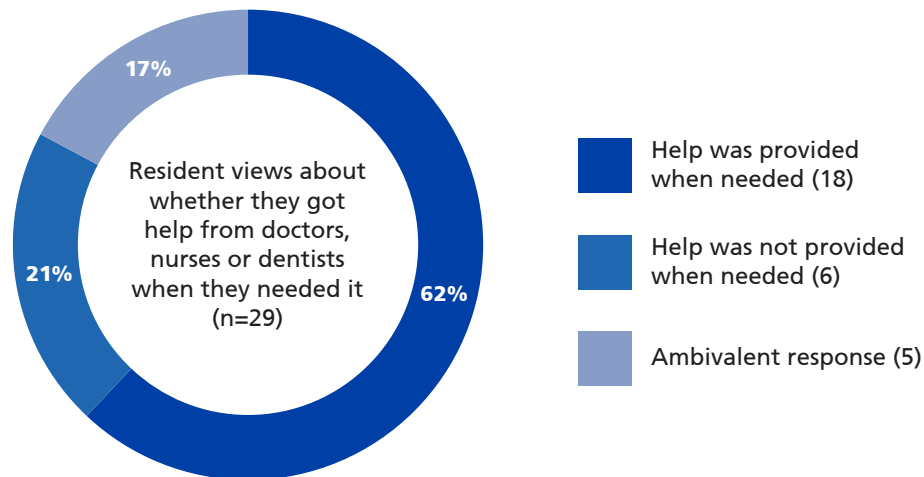
### 6.11.3 Timely and comprehensive access to health care

The TCVU examined detainees’ access to health care through Reviews of Records in the 12 months preceding the Inspection. During the Inspection, the Health Focus Group identified serious concerns about timeliness and appropriate health management:

- ▶ Operational staff effectively make health-related assessments at times, “which is a danger”, not least because it may mean that a nurse is not even notified of a health concern. This applies to both physical and mental health issues.
- ▶ External appointments (even specialist appointments that must be booked well ahead) can be cancelled at the last minute: “on the day, if there’s no staff to take them” [i.e., provide an escort service]. This suggests a susceptibility of health care to the fragility of the daily staffing model (we were advised that data was not available to indicate how often this happens).
- ▶ “24/7” on-site health support (as was available, for example, at the Yatala adult prison) was advocated. Other staff members referred to the span of hours a nurse was on site being greater in past years. An experienced staff member made an even more specific proposal: “bottom line: there should be someone here 24/7, not just a nurse, but a doctor.” Another staff member identified a “24/7” need for “mental health nurse services on site.”
- ▶ Reference was made to long delays with ambulance attendance, typified by an incident that occurred during Inspection week.
- ▶ Reliance on a locum service was deficient, as the locum would not have access to relevant files or case histories. Problems can arise if individual doctors “sometimes” do not want to attend a detainee in the AYTC. Other staff expressed concern about the possibility of extended waiting times with locum attendance.

**Chart 8**

*AYTC inspection 2019 (n=29)*



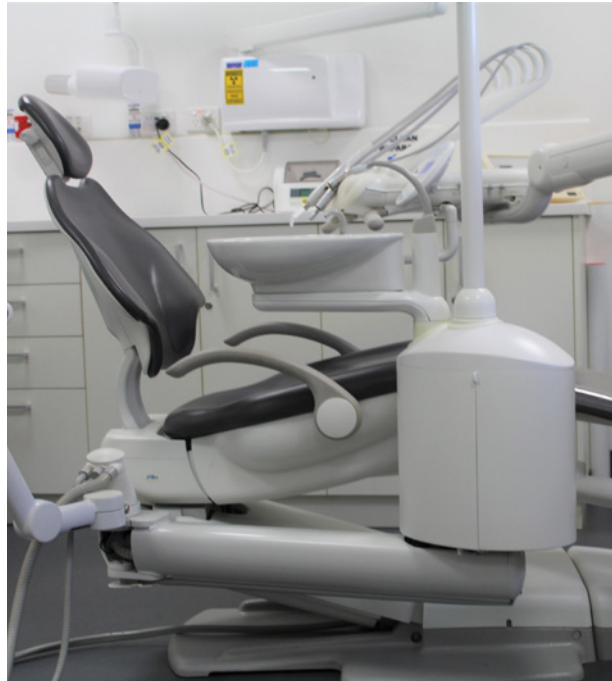
Other non-Health staff also raised timeliness concerns, suggesting that, at times, “access was not as prompt as it should be” or that it is not timely at all. Reflecting the concern noted above from the Health Focus Group, several other staff alluded to on-site nursing staff not being available at certain times when, ideally, they should be. One staff member referred to “limited” availability due to nurses only being rostered until a certain time in the evening, and that if they call in sick, they may not be replaced. Another staff member said that access was better in the old Cavan/Magill days.

AYTC management acknowledged this reality and that they would like to have more coverage but just had to accept the necessity to “triage as best we can” if something goes wrong. In this context, a staff member suggested that “we can do it better; it could be a risk if we don’t identify a health issue” and that “if there’s an incident, they [detainees] need to be assessed within a reasonable timeframe. The duty supervisor makes the call.”

Despite such concerns, staff generally agreed that responding to health concerns is an “operational priority”, with one adding that “I’ve never seen medical treatment declined.” However, there were other opinions about whether provision of (on-site

and off-site) health services is an operational priority. The Health Focus Group, for example, identified several current situations where this priority is not realised:

- ▶ Professional and legal visits “trump health”.
- ▶ Going off site for medical care should be a priority “but it isn’t: there’s no staff for transport.”
- ▶ Health services cannot be accessed during shift change-overs as the AYTC is locked down (for periods of time that have generated some concern).
- ▶ The recent campus consolidation at Goldsborough means more frequent lockdowns.
- ▶ The “no-mix” policy in relation to female and male detainees “means we can’t see them”, with the no-mix rule described as “a real hindrance”; the view was expressed that “it’s absolutely manageable to have boys and girls mix” in the health and other AYTC spaces.
- ▶ Broader operational staffing problems also mean that other rooms may not be accessible when access to the Health Centre itself is restricted for various reasons at a particular time (noting that specialist medical equipment is only held in those rooms).



When presented with detainees' concerns (as expressed to TCVU staff) that it can take "up to weeks" to get requested health service attention, the response from AYTC management was that "we will never stand in the way of a clinical judgement." Detainees raised individual concerns about access to health services during their interviews. One detainee asserted, for example, that his "rights" were not being met: "My knee is fucked and it took two weeks to be seen", while another claimed that they could not get access to necessary anti-depression medication.

### 6.11.4 Medication Management

#### Operational staff's views

Staff members who distribute medication to detainees in their units have no specific accreditation for this purpose, nor accredited competencies to monitor side-effects. Several staff raised concerns and expressed views about unit staff being expected to do things that they are not appropriately qualified to do or adequately prepared for (and which may not be reflected in their position descriptions). They made specific reference to supporting detainees with mental health needs and managing associated medications:

- ▶ "We issue medication; we need training on that. In other places, it's the nurses who issue it" and "we just have the blister pack, but we don't know what it is."
- ▶ "The other day, a staff member issued the wrong medication to a resident" (It is notable that a young person separately said that they recently had been given the wrong medication).
- ▶ Staff resort to Google searches to find out about newly prescribed medications.
- ▶ A staff member said that excessive amounts of prescribed medication can be taken by detainees at times, both through mistake and through the hoarding of medication.

The TCVU has previously raised concerns about the development of a clear policy for management of Schedule 8 medicine<sup>141</sup> at the AYTC, particularly in relation to its administration to detainees and the guarantee of monitoring by suitably qualified staff, and is of the view that current practices should be reviewed.

In interviews, the Inspection team were told that operational staff are only partially prepared for what is involved with managing detainees with medical issues. Staff described a recent example where a long-

<sup>141</sup> Relevant health regulations identify Schedule 8 prescription medicines as drugs or drugs of dependence that have a recognised therapeutic need but also a higher risk of misuse, abuse and dependence. See SA Health (n.d.). What are schedule 8 drugs (drugs of dependence) and why are they classified this way? <https://www.sahealth.sa.gov.au/wps/wcm/connect/Public+Content/SA+Health+Internet/Conditions/Legal+Matters/Schedule+8+Medicine+Treatment>

term detainee had been prescribed new medication for a mental illness. During the night, the detainee told the staff member that he was “really hungry” (which he had never done before). The staff member was concerned that this might be an indication of a negative side-effect, but there was no access to a nurse at night to receive immediate advice.

A staff member also reported that while a detainee might be prescribed a certain medication regime while in Boylan Ward,<sup>142</sup> this medication cannot be prescribed while the detainee is in the Centre, remarking, “Where is the sense in that?”

### Detainees’ views

Two detainees related incidents about medication management. In one case, a young woman reported that she had filled in an RIC form after she “got the wrong medication”. She said she and another detainee with medication of the same name had their medications mixed up. After taking the incorrect medications, she said she had “slept a lot”. Another detainee claimed that a named staff member “snaps at the residents when she is having a bad day” and on one occasion allegedly forgot to issue this young person with their medication.

AYTC/DHS operational management did not respond directly when asked about medication management arrangements and the in-unit capacity to monitor for dangerous side-effects. Instead, the response referred to admissions staff all being “first aid trained” and able to “conduct a reasonable assessment” (and possibly refusing to admit a young person if they have a significant concern). A nurse subsequently conducts the actual health assessment.

A staff member’s comments indicated that this may not always occur as well as it should, noting that “we might get four to five days between residents getting to see a nurse after admission”. They saw this as an under-resourcing issue and “an area that needs attention”, for although supervisors are expected to sign off that the young person is healthy, they are not qualified to do this.

### 6.11.5 Drugs and alcohol

Detainees spoke about the impact of drug and alcohol use on their lives. Some recognised that a period of detention can provide an opportunity to address substance misuse issues or, at least, remove detainees from active consumption for a while.



ON SITE CLINIC ROOM

142 Boylan Ward is the State’s psychiatric medical unit for children and young people.

## Youth Treatment Orders

*The Controlled Substances (Youth Treatment Orders) Amendment Act 2019 (SA) passed by State Parliament in late 2019 will allow the Youth Court to issue assessment, treatment and detention orders to children and young people who have a dependency on a controlled drug.<sup>144</sup>*

This Act is yet to commence, with a suitable model of care and associated resourcing to be settled following a consultation process that was mooted for early 2020. It is proposed that the Youth Treatment Orders scheme will be rolled out in two phases. The first phase will apply to those children and young people with a drug dependency who are already detained at the AYTC, and the second phase will apply to all children and young people. The TCVU will monitor this roll-out and the possible implications for young people in the AYTC.

It is not known whether children and young people placed under Youth Treatment Orders in the AYTC will undergo treatment on a separate campus or unit of the AYTC or will be subject to the same regulatory regime as the other detainees.

The need for clinical treatment in a therapeutically appropriate environment must be balanced with a child or young person's right (and need) not to be isolated from other children and young people. A foreseeable implication of co-placement at the AYTC is that the default environment is one developed for children and young people under criminal detention orders

(i.e., a carceral environment that continues to be subject to problems such as bullying.) Those under Youth Treatment Orders may be seen by other detainees as recipients of special treatment or as somehow different.

Any Youth Treatment Order model of care applied in such an environment must consider that children and young people may be at increased risk due to environmental factors that may exacerbate self-harming behaviours or suicidal ideation. These concerns may be heightened for young women, with lower numbers meaning that girls and young women detained at the AYTC have a higher risk of social isolation.

It is unclear how a therapeutic drug treatment program would be accommodated by or sit alongside current AYTC behaviour management processes and procedures, given that the AYTC is not a therapeutic environment. Practical issues will need to be addressed, such as the need for on-site access (24 hours a day, seven days a week) to specialist medical and other staff. Currently, most AYTC staff are not trained across multiple necessary discipline areas, let alone in potentially new drug rehabilitation competencies within a mandatory program.

Further secure therapeutic detention options may develop in the future, so similar questions may arise should the AYTC be part of any associated service response.

<sup>144</sup> The TCV's position regarding Youth Treatment Orders as expressed in March 2019 can be viewed at <http://www.gcyp.sa.gov.au/rights-concerns-over-youth-treatment-order-bill/>. At the time of preparing the current report the government is still considering what the appropriate model of care will be for children under the legislation that passed in late 2019.

Drug and Alcohol Services South Australia (DASSA) attends the AYTC for three hours a week to provide drug counselling in three individual client sessions. Discussion in the Health Focus Group indicated some concern about the amount of follow-up that occurred for matters dealt with in these sessions, especially if associated problems become apparent in relation to mental health or other life domains.

TCVU reviews of AYTC program information indicates that neither DASSA nor any other specialist agency offers regular broad drug and alcohol misuse programs in the Centre.

The Queensland Productivity Commission Report, previously referred to, succinctly states the significance of substance misuse as an issue for children and young people in youth justice detention:

*“Early consumption of alcohol or drugs can impair brain development in teenage years and lead to both higher immediate and lifelong risks of crime. Thornberry (2005) showed that young people with drug and alcohol problems are the most likely to be unsuccessful at transitioning to stable adult roles.”<sup>143</sup>*

### **Detainee and staff views**

A detainee said that a “good” thing about the Centre is that there are no drugs there, while a fellow detainee described being in the AYTC as “a good learning curve for me” because he “would probably be dead” if he had stayed outside (particularly because of drug use). A third young person contrasted being on anti-depressants “in here” with being “on a lot of stuff out there”.

Some staff asserted that detainees need more access to drug and alcohol programs and support. It was argued that “drug and alcohol counselling is very minimal”, with no presence in the units and “nothing in place” in terms of specialist support for drug or alcohol withdrawal. One staff member noted that the young people “mostly enjoy” the Red Cross fitness program and SMART recovery program that explain how drugs affect the brain.

An experienced staff member said that the AYTC was not able to deal well with residents going through drug withdrawal and that operational staff

are not sufficiently prepared to know what the “triggers” are for withdrawal events and what to do in response.

Health Focus Group participants suggested that comorbidities are not sufficiently recognised and that, as a result, inconsistent responses are given. Similarly, this detainee population needs more than the three DASSA drug and alcohol counselling appointments currently available each week.

A staff member said that he had asked management three years ago to consider proper training for admissions staff to improve their capacity to screen for the impact of drug and alcohol and mental health conditions at that point. According to that person, this training was not provided but is still necessary.

### **6.11.6 Mental health**

During the Inspection, the prevalence of mental health issues and associated unmet needs formed the basis of much discussion with both young people and staff.

#### **CAMHS/YJAIS: services available and trauma**

CAMHS and YJAIS (who provide non-mandatory services for detainees) are the main providers of therapy, assessment and mental health services within the AYTC. Teams are multi-disciplinary and may include mental health nurses, cultural staff, social workers, psychologists, a psychiatrist, speech pathologists and occupational therapists. While CAMHS have Aboriginal-specific positions, the YJAIS does not. The YJAIS team currently includes access to the expertise of an Aboriginal psychologist.

YJAIS staff who spoke with the TCVU during the Inspection identified that they take a trauma-informed approach and stated that many detained young people present with needs arising from post-traumatic stress disorder (PTSD) and complex trauma. One noted that the relocation of YJAIS to the AYTC has helped with access to clients, improved their staff’s ability to attend meetings and increased communication with, and educational opportunities for, detainees.

143 Queensland Productivity Commission. (August 2019). *Final report: Inquiry into imprisonment and recidivism* (p. 61). <https://apo.org.au/sites/default/files/resource-files/2020/01/apo-nid273991-1407221.PDF>

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Staff now consider the role of speech and occupational therapists in the Centre to be invaluable. There has been considerable development in assessing and responding to the behaviour support needs of young people from an allied health perspective.

CAMHS staff described the interface of intergenerational trauma and mental health as an unmet need of young people in the AYTC but that this is critical to their support and rehabilitation. It was also suggested that one of the strengths of their program model is that it uses both cultural and clinical assessment. This co-clinician approach is

well established and clearly is well thought of by a detainee who commented that if they had an issue relating to cultural matters, "I wait until Monday or Tuesday, as CAMHS are in". Another detainee said, "I usually talk to CAMHS about things, as they are confidential."

CAMHS cited a "strong and frequent" presence on the campus as a strength of their service, and their ability to provide through-care offered consistency of access into the community.

Several staff (from different work areas) and detainees commented on systemic racism inherent in

the youth justice system and how that is exacerbated for young Aboriginal people with mental illnesses. Three comments from staff were:

- ▶ The AYTC was described as a “dumping ground for Indigenous youth with poor mental health.”
- ▶ In relation to some young people with severe mental illnesses: “They can’t be held accountable for their actions, but they’re held here? It’s getting worse ... ice doesn’t help.”
- ▶ There is a perception that the AYTC is just warehousing unwell kids, with one staff member casting doubts on how well the police respond to young Aboriginal people in the community.

The need for extensive trauma-informed approaches was identified, with staff commenting as follows:

- ▶ “Teachers are told they’re trauma-biased [i.e., too lenient with the trauma]”; “All staff should be trained in Berry Street.”<sup>145</sup>
- ▶ Trauma-informed practice, mental health and autism awareness are lacking: “Some staff are hopeless. It’s pathetic.”
- ▶ There was also a specific example given of “blurred lines” about whether a DHS or DCP worker may be best placed to deliver sensitive news to detainees about important happenings in the community (births, deaths etc.) The suggestion was that delivering difficult news could negatively impact upon or “fracture” a therapeutic relationship that has been built with a detainee in the Centre.
- ▶ “Mental health is a massive issue. Don’t lock them up. It’s out of control here. We need more info around autism.”

### Use of Frangipani/Boylan Ward

Young men with serious and persistent mental health issues are often housed in Frangipani Unit, which is also used for housing those placed on Restricted Routines. This co-location requires constant and complex management by unit staff to ensure the movement and safety of detainees who are on “no-mix” orders. One staff member noted that “we are very stretched in ‘Frange’”. This

comment was in relation to two detainees who both had major mental health issues. Girls and young boys who experience significant mental health difficulties in the AYTC are managed in their regular units.

A young person commented perceptively about the operational practice in the units by observing that “some of us call the safe room ‘Boylan Ward’”. Boylan Ward is the State’s psychiatric medical unit for children and young people, located at the Women and Children’s Hospital.

There is no specific forensic or high-needs youth mental health facility in this State, which results in young people with significant mental health issues being incarcerated in the AYTC for extensive periods. All staff acknowledged that for many young people with complex mental health needs, the AYTC was not the best or most appropriate environment.

Staff raised many concerns about the treatment received by children or young people with severe mental ill-health issues and the relationship between treatment in AYTC and Boylan Ward:

- ▶ They noted the high numbers of severely mentally unwell children and young people detained at the AYTC.
- ▶ Staff also commented on the lack of intermediary service for those who did not need in-patient treatment in Boylan Ward but required skilled management
- ▶ Staff also noted the lack of intermediary service available for those who do go to Boylan but are deemed not to have mental health issues or not meet the threshold for admission and are sent back to the Centre.
- ▶ Staff raised concerns about increasing tensions in the girls’ unit, with a seriously mentally ill young woman mixing with the others at the time of the Pilot Inspection: “It is bound to go bad, and she’ll potentially be hurt.” A detainee also raised concerns about this individual: “She shouldn’t be here at all. [She should be in Boylan Ward]”
- ▶ Staff commented that the Centre was not resourced or prepared to provide the level of care and support required by detainees, not only

<sup>145</sup> Berry Street is a Melbourne-based non-government organisation that provides human services, including in relation to children and young people with trauma backgrounds. Professionals in this area often refer to training and professional development provided by Berry Street as a good practice exemplar.

for the individual young person who may have a mental illness, but also to manage and respond to the behaviour of detainees mixing in units.

Staff felt that additional training would help, and when asked if psychiatric review and treatment happened in a therapeutic environment, one staff member commented, “That’s hard in an operational setting. What’s the therapeutic setting? A safe place? Consistent staffing?”

Detainees manage their mental health differently, with one young person telling the Inspection team that “sometimes I have told staff my anxiety is high and I need time in the courtyard.” Another young person acknowledged the high rates of mental illness and that staff are doing the best they can: “Some people hurt themselves in here. I hurt myself in here when I’m angry. Staff will help and talk about what we can do better.”

When considering mechanisms available to assist detainees to manage their own mental health, we note that radios were not universally available in bedrooms. Radios are only accessible to detainees on Phases Two and Three of the Behaviour Support Framework, yet there are not enough to ensure that all those eligible can have this access.<sup>146</sup> This is concerning as some detainees can use them as effective self-management or calming mechanisms. Phase One detainees can request access to a radio and may sometimes receive them. One young person who does this told us, “[I] go out in the courtyard. Listen to music,” and “at school I can listen with headphones on.”

Young people noted that sharing space with others who were very unwell resulted in more complicated dynamics and additional concerns about equity and fairness in relation to behaviour management and privileges. A detainee described a disturbing situation in which a seriously mentally unwell detainee was said to be “not safe” because they had access to “unfair” privileges denied to other detainees.

Young people with serious mental health issues often do not attend school while in the Centre due to their behaviour and associated risks. During the Inspection,

there were two detainees who “can’t attend [school] at all”. There is no dedicated education space in Frangipani Unit for education to be provided.

There does not appear to be an embedded opportunity for Aboriginal children and young people to access cultural healers. The TCV has no cultural authority to advise about this, but, guided by the views of two Aboriginal members of the TCVU Inspection Team, it is suggested senior DHS Aboriginal staff may choose to explore this matter in the most culturally appropriate way.

The Inspection found that the current accommodation model within the AYTC (including staffing arrangements) needs revisiting to decipher how young people with complex needs or mental illness are cared for, particularly those on long remands. This care has clearly placed strain on other detainees and staff.

### Access to psychiatric treatment

During interviews and focus group sessions, some staff reported delays in early detection, responsiveness, referral and external assistance in relation to detainees’ mental ill-health.

Specific concern was expressed about potential delays in responding to psychiatric health needs, an example of which was delay associated with obtaining a medical assessment necessary for the prescription of medication. As doctors who must provide such assessments and prescriptions are not on site daily, staff reported there can be up to several days’ delay in obtaining a psychiatric assessment and treatment for a psychotic child or young person. During the interim operational staff simply have to “cope” and manage that psychotic young person. Many studies have been published which demonstrate that delays in diagnosis and treatment for psychosis may cause permanent damage to the brain and affect a person’s ability to recover.<sup>147</sup>

When we asked if a mental health disability<sup>148</sup> necessarily would be detected in the AYTC, one staff member replied, “not really”, as the system relies on operational staff “picking things up”. Other

<sup>146</sup> This is an example of a situation where the problem can easily be resolved (i.e., buy more radios), yet it persists, leading to potential escalation of behaviour that can be detrimental to detained children and young people.

<sup>147</sup> For example, see Anderson K.K. et al. (2014). The role of untreated psychosis in neurodegeneration: A review of hypothesized mechanisms of neurotoxicity in first-episode psychosis. *Canadian Journal of Psychiatry*, 59(10) 513–517.

<sup>148</sup> This term was used broadly, and not meant to constrain responses to disability definitions used by various government programs. DHS has pointed out that current NDIS usage refers to psychosocial disability.

staff suggested that it is only when CAMHS come in and doctors interview detainees that diagnoses can occur. We were advised that a nurse can make a CAMHS referral.

A staff member stated that operational staff can talk to a nurse or recommend an Assessment Care Treatment Plan but cautioned that all of this depends on a detainee's behaviour: "We don't know their background [e.g., illicit drug use]. Staff should have more mental health training ... more training about Aboriginal culture so all workers know about that."

Staff also informed us that the psychologists on site are appointment-based, and detainees cannot simply "drop in" to connect. They queried if this appointment-based system is responsive to the needs of young people.

The need for confidential spaces was consistently raised by staff interviewees from across the Centre. One staff member commented that psychological help happens in a unit's games room, and detainees go to the medical centre for physical health.

## 6.12 Education

The Department for Education maintains the Youth Education Centre (YEC) at the AYTC to ensure that young people can continue to access education and training while in custody. To assist with coordination, DHS participates on the YEC Governing Council and YEC leadership attends AYTC management meetings "to ensure [that] education and rehabilitation goals are aligned and consider the aspirations and needs of residents".

DHS offered additional information (in December 2019):

*Residents undergo a range of learning assessments through the YEC that support the development of a learning plan. Students participate in programs to improve literacy and numeracy, which are individualised to ensure each young person engages at an appropriate level and progresses successfully towards identified learning goals. Training opportunities, including Certificate II level qualifications, are provided through the YEC*

*for residents as appropriate and have as their goal the rehabilitation and reintegration of young people into the community through employment or further training opportunities.*

Most detainees attend school. An operational staff member said that some detainees "don't participate if they don't want to" and that there was no planning about what to do in such circumstances.

### 6.12.1 YEC Focus Group

The conversation with YEC staff in the Education Focus Group was dynamic and provided much information for consideration as part of the Inspection process. The following account is structured under the key questions we asked in that forum. We have added comments from other stakeholders to colour the overall picture.

Is education an operational priority for the AYTC? (On and off site)

The purpose of this question was to invite the educators to reflect on how their activities fit within the AYTC custodial environment and to identify specific concerns or opportunities. Ensuing discussion suggested that all parties try to meld the education/training agenda within the Centre as effectively as possible. However, we noted a sense of frustration that arose from the perceived dominance of a security rather than educative paradigm, and the way in which operational staffing constraints create significant problems for the delivery of the education program. One educator exemplified this tension by describing the pedagogical timetable as secondary to other concerns, particularly the requirement that there must be a 1:1 education and youth worker profile in place in teaching environments.

Education legislation requires a school to deliver 1600 contact minutes per week. This is never achieved as the YEC operates on a model that provides for 1310 contact minutes. Under current conditions it seems clear that even this is often not achieved. One YEC Focus Group participant stated, "We'd be lucky to get to half of that."

The following matters were identified in a context where the girls, young women and younger boys had been seriously impacted upon by their recent transition from Jonal to Goldsborough campus.

## Operational staff rostering and the YEC

- ▶ The removal of a specific allocation of an operational staff member from 9 to 5 on school days to the YEC had already created difficulties.
- ▶ A *minimum* of eight “ops staff” are needed at all times to support YEC activities, the requirement may sometimes be nine or 10, depending on “pedagogical” requirements, but “it doesn’t seem that ensuring eight is an operational priority.” If there are only seven staff, the timetable cannot operate in an environment already subject to inherent constraints, such as:
  - management of non-associations between individual detainees;
  - the requirement not to mix boys and girls;
  - the limit of a maximum of six students in a class.

## Accommodating participation in education in the AYTC operational environment

The YEC “education day” works on a 3 x 90 minute cycle. This was described as almost never being possible due to specific factors:

- ▶ Time is wasted because of the following:
  - rigid intra-campus “movement” processes that govern travel between residential units and the YEC and other locations;
  - a class only being able to commence when all relevant detainees are present, which means that it is subject to the effectiveness of individual unit movements;
  - the impact of factors such as individualised behaviour management plans and campus lockdowns;
  - other “risk management” measures being applied, such as the time-consuming process of returning all detainees to their units during recess. We were informed that this was a practice imposed because of a serious incident.
- ▶ Late starts are the norm, because even if the timetable presumes an 8.40 am start time, this commonly might end up being anywhere between 9 or 10 am (and some days not at all).

The educators noted that the result of these combined factors is the reduction in actual class time, which then reduces opportunities for one-to-one teaching engagement with those students who particularly need it.

## Problems exacerbated by the move of all detainees to Goldsbrough campus<sup>149</sup>

Education and operational staff, as well as most detainees who offered an opinion about the impact of the campus consolidation, suggested that the move to Goldsbrough campus had disadvantaged those who had come across from Jonal campus (which has its own education facilities that operates as an offshoot of the YEC).

We were told, for example, that the younger boys had not attended school for three days during the week of the Inspection, because of operational staffing issues at Goldsbrough; “which wouldn’t have happened at Jonal”. It is not clear why a recurrent failure to ensure a child’s attendance at school is acceptable for the State when it is fulfilling a parental role, while it would not be for any other parent or carer.

## Assessment to identify resident education/training aspirations and needs

After a detainee is admitted to the AYTC, the YEC undertakes an initial three-day assessment process to identify their education/training needs. An operational staff member suggested that detainees sometimes wait too long for school assessment.

Operational staffing shortages meant that this process is done in the accommodation units but, from the educator’s point of view, an intensive individual assessment process is not well suited to that unit environment. We were told that the process is constantly disrupted or affected by operational factors. For example, an assessment must fit within unit routines and competing demands (e.g., going to the gym) and may be affected by lockdowns. There are often not suitable desks or spaces for paper-work and it may be impossible to avoid distractions such as the television and general noise levels.

<sup>149</sup> Discussed further in Part 6.12.2.

**Do residents get the education or training that they want and need? If not, what gets in the way?**

Most participants in the YEC Focus Group did not believe that detainees get the education or training they want and need, and all participants agreed that there are at least “limitations”. This is partly because other activities automatically take precedence (e.g., medical, dental or professional visitor appointments).

More detailed comments were made about the impact of operational practices such as non-associations, ‘consequences’ for behaviour and protective actions.

We were provided with examples of education being treated as secondary to Centre discipline, such as when a student is denied access to the workshop space for two weeks. We were told that the YEC may not be informed about such a decision beforehand, let alone be invited to comment or advise. The view was expressed that this may not always be a decision motivated by safety but may be a form of punishment, and that punishment that impedes education is something that would not be tolerated by a parent in the community. YEC staff

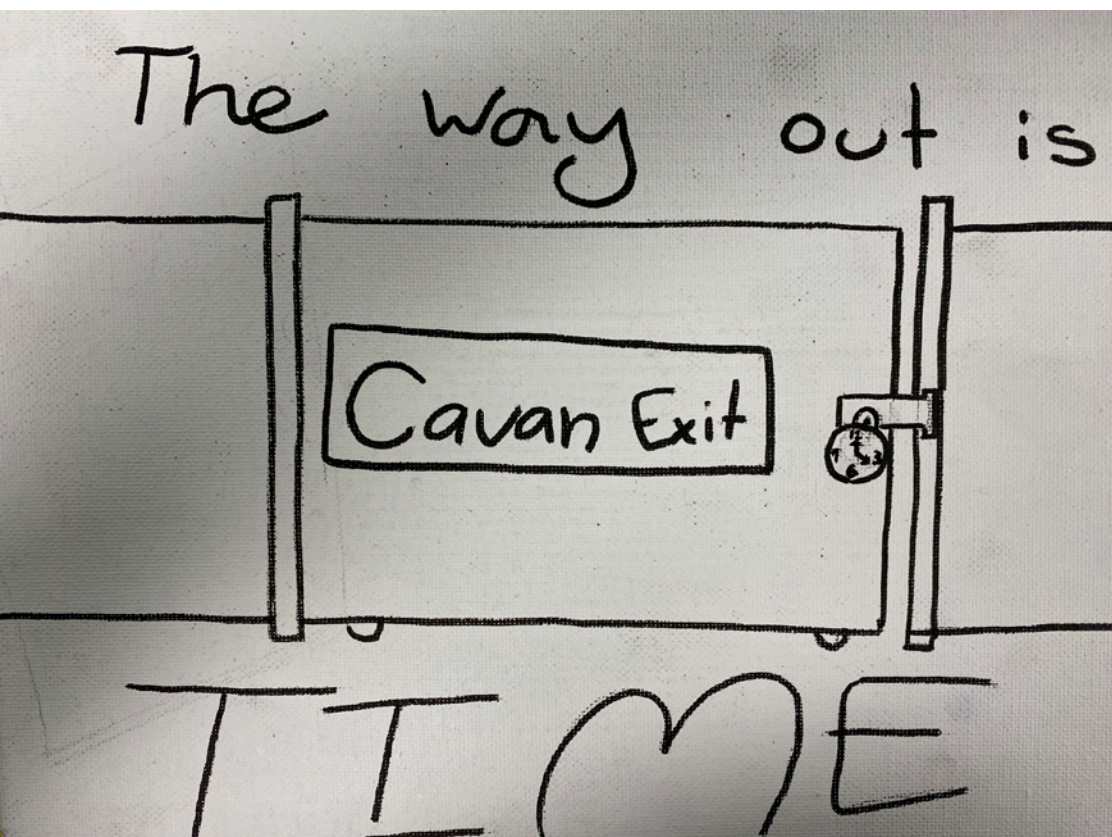
were not confident that the negative impact of such a decision on a detainee’s education is given sufficient weight, nor are teachers’ judgments about how best to manage potential classroom tensions: “Teachers’ expertise is not valued.” They expressed the view that there should be an emphasis on maintaining engagement within classes.

It is important to consider the risk that AYTC practice implies that “education is seen as a reward and is withdrawn”; that is, that the BSF behaviour management process trumps normal education participation requirements.

**Can access to and the quality of education/training offered to residents be improved?**

An important point made in the focus group was that some detainees miss out on education and training opportunities, particularly:

- ▶ those with higher level or special needs, especially those effectively precluded from participation due to being accommodated in Frangipani, the Centre’s regression unit;
- ▶ girls and young women (Part 6.7.2 offers some opinions from the young women themselves);



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YOUTH EDUCATION  
CENTRE LIBRARY  
SPACE



- ▶ detainees with advanced learning capacity who may not be enabled to work to their full capacity (e.g., through lack of access to a laptop).

Other concerns were raised in the YEC Focus Group about detainees' education experiences:

- ▶ Internet access is very limited.
- ▶ Access to s.34 leave (from the Centre, for identified purposes) was seen to be unnecessarily restrictive, with "so many hoops to jump through" that only a handful of applicants get approved for educative purposes each year. YEC members were not sure whether this lack of opportunity had more to do with severe "security/risk" assessments, as opposed to resource constraints that would make access to the required staffing escort unrealistic. (Similar concerns were raised in the Health Focus Group, see 6.12.2)
- ▶ Access to vocational education and training (VET) opportunities needs to be improved with restrictions to s.34 leave a "major limiting factor" that exacerbated a lack of optimal on-site facilities or adequate equipment to attain certain desirable qualifications (e.g., access to hoists required for automotive courses) education and training opportunities. The opinion offered was that the system was now much more risk-averse about accessing such programs than in the past. We were advised that staff feel the need to be very careful about *pathways* discussions, in order not to create expectations for detainees that they might be able to access specific training. This perception is highly concerning given the Centre's rehabilitative responsibilities.
- ▶ Opportunities for reflection and resolution of tensions are limited. Education staff observed there are times when a detainee needs to go into

a separate space, even briefly, to reflect and deal with emotions. However, current YEC options are not conducive to this, either by providing access to a reflective space or providing something for a young person to do there: "It is just a wall and a chair" with no "sensory support". The failure of a proposal to provide a "sensory room" at Jonal due to "risk" factors was discussed: "We fought to have a sensory space at Jonal. It was knocked back."

The current situation was described in the following terms: "They're put in, closed, lock the door—to regulate their behaviour." An opinion was offered suggesting that the capacity of teachers to manage situations was not valued enough and that it was part of teachers' skillsets to be able to engage with difficult situations, which sometimes can better be resolved by a conversation with a student outside a class. The teachers expressed concern that they have no control over how issues that may occur in the education context are resolved.

### **Opportunities for improvement**

YEC focus group participants were asked to make any additional comments they wished, with several issues noted:

- ▶ The YEC Principal mentioned two strategic objectives that would make a considerable difference for YEC operations and the education participation of AYTC detainees. One was to consider running a 50-week school program and the other was the potential to establish a Saturday Program (potentially sports-themed).
- ▶ A Youth Justice Disability Champions Network was seen to have promise.
- ▶ Planning is underway to commence education assessments at the Youth Court, prior to the children and young people arriving at the Centre.

### **6.12.2 Education and the 2019 campus consolidation**

At the time of the Pilot Inspection, the YEC was still managing the impact of the recent consolidation on one site of students who previously had undertaken their education on both Jonal and Goldsborough campuses.

### **Access to rooms and spaces, including the library**

We were told that access to rooms specifically for education purposes was more difficult "now that Jonal has come over." Staff referred to the use (described as a "take-over") by AYTC of an open access training room that previously had been available for general purposes.

YEC staff noted that running effective one-on-one programs was now more difficult because of limited room availability and scheduling rigidities. These factors, together with general "staffing pressures" compound the difficulties of conducting the one-on-one reading program, including a personalised reading program for girls.

Both the young boys and girls had previously benefited from having flexible and daily access to the library at Jonal campus. Education staff reflected that this facility is "now just sitting there". The new arrangements at Goldsborough also can mean that "if someone has Court on their library day, they might not get access for a month."

The merger means that one school with one set of facilities is now required to meet the needs of two schools. Further, the new arrivals (i.e. Education staff and detainees from Jonal) have necessarily been accommodated in "what was left" in terms of space and resources. There also now is less flexibility because the practice and opportunity of mixing young men and women in some classes, as was done at Jonal Drive, has had to cease.

The YEC has indicated an interest in providing education to those in the protective actions/regression unit of Frangipani but this option is hampered by lack of access to an appropriate learning space.

### **Impact on access to courses and innovation**

It was stated that the girls now have fewer curriculum options.

Lack of internet access results in limited tertiary studies.

It was noted that the Student Voice Forum, an innovative program due to commence in 2020, has been put on hold because of timetabling

issues arising from both staffing and space factors associated with the campus consolidation. There is no longer a space nor a support officer in place to run the program. This is disappointing for detainees as they had been surveyed in the previous term and time allocated in the YEC timetable. Staff reflected that this disappointment has reinforced the cynicism of some long-term detainees, who said that something like this would never actually happen.

### Staffing and rostering

As noted already, school-ready young boys have been prevented from attending school because of AYTC operational staff shortages and/or rostering issues.

### 6.12.3 DHS/AYTC views

We asked AYTC Operational management how they will address the fact that some detained children and young people are operationally precluded from attending school, indicating that our question was based on clear evidence that this is not an occasional issue but a structural and inevitable result of staffing constraints.

Their answer contained several elements which pointed to issues that interfere with 'getting to school':

- ▶ health can be a factor at the "lowest level", noting that the presence of a communicable illness means automatic non-attendance;
- ▶ the prioritisation of other activities such as attendance at court, professional interviews and health appointments; and
- ▶ the main focus of discussion, which was risk-related factors such as the terms of DRMPs, operation of modified or structured routines, and Centre lockdowns.

When discussing the fact that the imposition of "consequences" due to problematic behaviour often precludes attendance, management acknowledged that "we need to demonstrate better that decisions are made in a responsible way." They discussed this in some detail in relation to the frequent preclusion of detainees from school workshops, such as metals, wood, kitchen and horticulture,

which they described as 'high risk' although they acknowledged they can also be modified to operate in a low-risk manner. It was the view of management that the ARIG<sup>150</sup> process makes a purely risk-based assessment and that there had been more dangerous incidents in the past, but these have been reduced by the current system. It was their view that "the process works very well". However, the AYTC may need to work on how their risk-based assessment is documented and evidenced because (as was noted in Part 6.12.1) there is a perception among some education staff that some of these 'consequences' are more punitive than risk-based.

The perspective of DHS Executives was that AYTC's Dynamic Model is based on "proactively determining" how to balance risk and participation and that they are trying to get staff to be a little more "optimistic" in their assessments in this context.

DHS executives also indicated that the amount of sick leave being taken has led to the more frequent use of modified routines than they would like and that "the leadership group is absolutely committed to getting this resolved as quickly as possible". There was a suggestion that an active piece of work is looking at "future rostering requirements".

We asked AYTC Operational management whether they were aware of the degree to which custodial decisions restrict school attendance and whether this sort of standard would apply to any other parent of a young person obliged to attend school, overriding the usual obligation to have their child attend. They did not answer this question directly but told us, in the interview and a follow-up email, that they were about to start a process of meeting fortnightly with the YEC with the intention of improving coordination and better monitoring "metrics" like times for school assessments, times that either department is unable to facilitate a session, start and finish times and education initiatives for Frangipani and the young boys, and girls.

This approach resonates with the perspective offered by DHS Executive: namely, that the education and AYTC phases models "should be complementary".

<sup>150</sup> The At Risk Intelligence Group (an internal multi-disciplinary meeting), which meets fortnightly

In its written submission to the TCV, responding to some specific questions, DHS referred to this “operational partnership group” and committed to do the following:

*“provide governance and track key KPIs regarding education attendance. While in its infancy, this group will look to meet fortnightly and track attendance, timeliness, contact hours, assessment timeframes, staffing related interruptions, education alternatives for young people unable to attend school”.*

The TCV welcomes this constructive initiative.

During the discussion, AYTC operational management correctly reminded us that AYTC education is being offered in a context where detainees spend an average of 12 to 21 days in custody. An alternative perspective was offered by a staff member who mentioned that some detainees are detained several times, possibly over a number of years. They argued that such detainees may have been originally detained at the age of 10 and if they are offered the same options each time they come in, “this is bound to create tension.”

The TCV’s concerns also extend to those detainees who spend long periods in detention, either as a single event, or for numerous periods that add up cumulatively. Many of the detainees have infrequent school attendance in the community and there is a window of opportunity to provide these young people with quality schooling (with more individualised attention from Education staff) in the Centre.

### **Views of operational staff**

The following comments highlight some of the views expressed by other staff at the AYTC about the role and practices of the YEC.

### **Integration within Centre operations**

Some non-education staff made strong comments about the provision of education in the AYTC, with one typically describing the operations of the YEC as quite “separate” from the rest of AYTC operations. The main concern was that the YEC was too “rigid” in its position of not coming to the units, implying that some detainees simply do not have optimal access to an education. This relatively negative view was balanced by the assurance of a DHS executive that they are trying to create an environment in



**THE YOUTH  
EDUCATION CENTRE  
OFFER HOME  
ECONOMICS CLASSES**

which the detainees' "homes" in the units are linked more effectively to the education process.

Reflecting the overall AYTC approach, there is no differentiation in the education context between detainees on remand and those sentenced to custody.

### **The education on offer**

Staff opinions often reflected a view that detainees needed something different to other children and young people. This included the view that the YEC is a "mainstream school, but these aren't mainstream kids", and that factors such as ADHD are a "big issue". There was a suggestion of a misplaced focus on teaching subjects such as maths and Excel when "vocational" options would be better. One respondent suggested that the YEC seems to operate in its own "bubble", separate from the reality of the education or training (or lack thereof) experienced by detainees outside in the community. Another remarked that targeted competency work was not happening to the degree that it should (e.g., it was a problem that "the kids haven't had reading intervention all year.")

One passionate staff observer reflected on the problematic school careers that some of the children and young people had experienced, while noting the importance of flexible learning options (FLO) programs to some. Staff also noted some of the comments detainees themselves had made (including that "the work is too hard" and that "I don't understand the big words") and concluded that school programming is not tailored to the individual and that security and compliance are the focus, not client needs.

An Aboriginal staff member said that there has also been a slow decline in the provision of culturally linked programs in the school and that the Aboriginal Cultural Officer position should be a stand-alone position. He said he was not aware that the YEC provided Aboriginal detainees with cultural support plans. A DHS executive noted separately that "conversations" about cultural programming were ongoing between relevant YEC and AYTC/DHS staff.

One interviewee said that effective teachers provide the young people with attractive engagement opportunities and suggested that "the music

*OUTSIDE CENTRAL  
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EDUCATION CENTRE*



therapist here has saved lives.” This positive impact was also recognised by the DHS Executive, who saw “the skills and interests of teachers” as a positive in the lives of some detainees.

## 6.13 Identifying and responding to individual need

### 6.13.1 Case coordination, planning and participation

At the time of the Inspection, DHS Youth Justice had two teams responsible for screening, assessment and case planning: the internal Case Coordination team, based at the AYTC; and Custodial Case Management, located externally. Each has a slightly different role and focus, but both teams work directly with young people to achieve agreed goals and ensure support during and (to a limited extent) post-detention. AYTC Case Coordination is required to meet with all “new admits” between three to five days after their admission into the Centre. The team reported that this visit usually happens on day two. After 28 days in custody, the young person is referred to the Custodial Case Management team. Specific requirements for screenings,<sup>151</sup> assessments and planning are outlined in the Act.<sup>152</sup> We met with each team as separate Focus Groups as part of the Pilot Inspection.

Child-centred principles were outlined by both teams as central to their approach. Young people’s remand period and/or sentence length were reported to be central to case-planning approaches and outcomes. Both teams identified their contact, relationships and support of young people as a positive part of their work, along with “giving young people a voice” in the system and remembering that “they are not offenders 24/7 ... there is more to them than that.” Flexibility, advocacy, negotiation and multi-

disciplinary teamwork were agreed to be essential tools for the work. One participant said that a key goal for their team was “releasing them into a better circumstance than how they entered”.

They reported that communication across work groups (i.e., between Case Coordination and AYTC operational staff) occurred on an as-needed basis and/or relayed at daily Muster<sup>153</sup> (when possible) or other regular meetings, such as the ARIG and IRC.<sup>154</sup> The operation of staff streams (such as Operational, Programs, YEC, Case Coordination teams) in silos was mentioned as a constant issue that staff across the Division needed to manage.

Some staff felt that goal setting (informed by the young person) and consistent implementation of those goals across YJAIS, Case Coordination and operational staff could be better organised and implemented. This consistent approach would also work towards overcoming barriers and implementing successful Behaviour Support Plans by all staff working with the young person involved. Some staff felt that if this was complemented by minimising the number of staff changes that the young people experience (due to organisational pressure or operational requirements), there would be better outcomes.

A major concern expressed in both focus groups and during staff interviews was the need to establish clearer agreed pathways and ensure cross-pollination of effort between a range of practitioners (e.g., CAMHS, YEC and YJAIS) through multi-disciplinary teams. A failure to do this creates confusion for clients (detainees), who can end up saying, “Who do I talk to? Fuck it! I don’t want to talk to anyone.”

151 Topics for screening included offending, reports, family, living circumstances, health, school, HEADSS assessment identified needs, mental health (immediate needs), cultural needs, family contact (names etc.), facilitation of the induction video, booklets, arrangements for detainees to speak to their lawyer, any outstanding fines, alerts, placements, referrals, CAMHS, social workers (if relevant), relationships in the Centre, any vulnerabilities, rules, and follow-up on anything from the SAPOL screening. Overall, the purpose of this screening is to ensure all young people are emotionally and physically safe. It forms the basis for subsequent reports, such as bail, custodial remand reports and so on.

152 *Youth Justice Administration Act, 2016 (SA)*, s.23.

153 Muster is a term adopted from military usage that describes the daily meeting of key staff during AYTC shift/staff handovers in order to allow verbal updating about key issues, concerns or events that occurred during the earlier shift that should be considered by the incoming shift.

154 The ARIG is the At Risk Intelligence Group (an internal multi-disciplinary meeting), and the IRC is the Incident Review Committee (an internal multi-disciplinary meeting), both held weekly on site.

## 6.13.2 Youth participation in case plans, screening and assessment

### Case coordinator views

We were told that case plans have recently evolved to include the voice of young people as a matter of routine. Resources/capacity and high workloads (including frequent court reporting) were cited as factors that sometimes inhibit face-to-face contact and involving young people in all decisions. Staff agreed that they try to be flexible and responsive to the needs of individual young people and accurately report their views (e.g., through quoting what a young person has said or reported).

It was recognised that when case coordinators undertook initial screening processes the participation of detainees tended to be involuntary: "We don't really ask them if they want to participate. I guess they have a choice to not answer or not tell the truth." While young people are not given the choice to abstain from the screening process, they are told "You can tell us as little or as much as you like," providing some sense of privacy and control.

### Views of other AYTC staff

This view about participation was not necessarily shared by all staff at the Centre. Non-case coordination staff were asked whether detainees participate effectively in case management and related planning and are always provided with the latest version of a relevant plan (DRMPs and case plans). Observations from these other staff included the following:

- ▶ Sometimes while being escorted after conferences and meetings, young people will ask escorting staff questions that should have been raised and responded to in the case conference. These might sometimes be "after thoughts" but also may indicate that young people may find it hard to raise questions in group settings.
- ▶ It is not clear how the case management process differs for young people on remand or under sentence.
- ▶ Staff are often unaware of what is in young people's case plans on a day-to-day basis.

- ▶ There is room to improve the involvement of young people in decision-making across the Centre and increase this participation to reflect the age and capacity of the young person.

### DHS Executives' views

When we asked DHS Executive about how detainees participate in the development and management of their case plans, they responded that Youth Justice case managers work collaboratively with young people, their families/carers and relevant service providers to conduct assessments, determine case plan goals and identify referrals. The young person is given the opportunity to contribute to the case plan goals and actions. There are also specific areas of need that must be addressed in accordance with legislation around health, education, rehabilitation and release planning. Best practice is that a young person will attend and participate in their case planning meetings. If the young person is not comfortable or able to attend the meeting, a case manager or case coordinator will discuss the case and goals with the young person and represent their views in the meeting. It is preferable that the young person signs the completed case plan once they have gone through it with their case manager or case coordinator. This is an area for further development.

### Some detainees' views

Young people offered various responses when asked about their participation in case conferences, with some mentioning positive experiences and others suggesting improvements:

*"I went to case conference and felt heard."*

*"I felt like I could talk up because I knew a few people in there."*

*"Sometimes it feels too big with too many people."*

*"They [conferences] assume what's right for you without asking."*

Most respondents knew what a case plan was, but few said that they had seen their own plan.

### 6.13.3 Resident incident comment sheets (RICs)

RICs have been designed to fulfil the requirement of s.33 of the Act (post incident). The form is essentially reflective, seeking the detainee's perspective about what has occurred, any subsequent medical treatment, how they are feeling and any support they may need.

Both staff and young people were sceptical about the value of the current RIC process. Staff noted that the forms do not capture the entire conversation and must be timely if they are to be effective. A more flexible process is required. It was suggested that young people could be consulted about the development of a RIC process that better meets their needs.

Young people indicated in their interviews that such a consultation would be welcome. All interview participants were asked about their knowledge of and prior engagement with RICs. Illustrative comments were made by young people, based on their direct experience:

*"I just write down what I did.... I don't know the point of them ... maybe feedback?"*

*"CAMHS can debrief us. I would rather talk to someone than do a form."*

*"Yes, I have done one but I don't know where it goes."*

*"Yes, I know but don't know the purpose.... I always say 'No comment.' ... They don't care what I say ... what I really think."*

*"Yes. Always say 'No comment' because I am not a snitch."*

*"Yep. Have used, not useful. Don't know [the purpose]: maybe have a yarn?"*

AYTC's internal face-to-face Phase Review Panels were reported by staff and some young people as a useful reflective tool to hear young people's voices, ideas and reflections and have positive conversations about their time in custody.



**PHASE 3 YOUNG PEOPLE CAN PARTICIPATE IN A RANGE OF ACTIVITIES IN THE PHASE 3 PROGRAM.**

The Inspection found that the current RIC form and associated process could be re-developed to obtain the voice of young people in a more meaningful way. It has the capacity to allow reflective discussion and the possible restoration of relationships however the current form is limiting and has become routine. A review is required that involves the input of young people.

### 6.13.4 The case coordination model and post-custodial care

At the time of the Pilot Inspection the case coordination and custodial case management model was being examined as part of the (then ongoing) DHS Youth Justice Functional Review. It was clear from Inspection consultations that, at times, both case coordination teams experienced role and communication challenges, and this had been exacerbated by the pressures of the Functional Review on top of a demanding workload. It was not clear how the Functional Review might affect team structures and models, but it subsequently became apparent that the review will not lead to any major changes to the existing model.

Case coordination staff described the ceasing of the relationship at the end of a young person's time in detention as one of the limits of the current model. Indeed, one staff member referred to this as a "cold shower at the end of the relationship". For many detainees who have completed a sentence or are released after what might have been an extended period of time on remand, contact with AYTC/DHS staff simply ceases. For some detainees this will have been a rare relationship with an adult. This limitation was also identified in the DHS Journey Lab feedback.<sup>155</sup>

Most young people and their families/carers require extensive support post-release. The 2020-2023 Youth Justice State Plan, released in mid-2020 hence after the Inspection, sets out actions for a more integrated justice system for children and young people across the sector, including roles for DCP, Education, Health and other government departments as well as non-government providers.

The plan also intends to strengthen end-to-end case management and ensure the young person's voice is at the centre of assessment, planning and service delivery.

*Recommendation 9 responds to matters discussed in this section*

## 6.14 TCV relationship with DHS/AYTC

### Executive and management level

In separate interviews with DHS executives and DHS/AYTC operational management, we asked the same question: *How do you believe the relationship between the TCV and AYTC/DHS is progressing? What are the opportunities and challenges?*

The major messages from the executives were that the TCV provides a valuable "independent lens" on youth detention and that the associated relationship with DHS continues to evolve. It was recognised that there had been some defensiveness on the part of DHS, but they advised, "we're working on being less defensive." An improved "line of sight" from Executive level has now been established. The Deputy Chief Executive emphasised that recent criticism which had circulated within the AYTC about the TCV's on-site attendance to address an urgent merger-related matter was unacceptable and that such unfair criticism by some staff would not be tolerated.

Two initiatives were discussed to improve communication and help sustain a constructive relationship. One was the TCV's interest in being provided with information about "good news" that could inform the oversight process and reporting, especially in relation to good practice and staff achievements. The second initiative was that the TCV will consider visiting the AYTC prior to the release of major public reports to brief AYTC staff about what they contain, particularly those matters

<sup>155</sup> The Journey Labs were consultative forums convened by DHS with various stakeholders as part of strategic planning processes in relation to the needs of children and young people in South Australia.

that may directly concern them.<sup>156</sup> Discussion with DHS/AYTC operational managers considered the day-to-day relationship. It was acknowledged that while relationships with the TCV and her staff are generally amiable and respectful, the views of some AYTC staff about the independent oversight process need to mature. They also noted the possibility of a congruence of interests: “You [the TCVU] can sometimes advocate on our behalf.”

Operational managers indicated that they are functioning in a context in which “we’re trying to change” a lot of people in a volatile environment and that such “change can take time”. They suggested that it may be helpful to “sit down and work through solutions together” more often, as this might mean that “outcomes would happen quicker for young people”. They advised that working with the TCVU can mean that “we’re consumed in responding to things all the time”, which, while necessary, took considerable resources and effort. It was noted that the AYTC is improving its capacity to evidence “transactional responses”. The managers discussed the practical impact of TCV requests and drew attention to the need for the TCV to consider and possibly apply “more realistic timeframes”.

The TCV explored her impression that AYTC management may not feel sufficiently respected by the TCV and her staff or sufficiently recognised for the effort they are making. They responded that “we get the impression that it may seem to the TCVU that we don’t know what we’re doing,” but the reality is that “we’re trying to change a lot of people” not just a few and “we can be so flat out busy.”

### Staff perspectives

In interviews and focus groups, we sought views from AYTC and other staff about their relationship with the TCVU. We noted (as mentioned in Part 5.4 of this report) that some staff had felt pressured in recent months because of the extent and nature of media scrutiny generated by Ombudsman and TCV reports. The comment was made: “The way media portrays us ... rubs staff up the wrong way.”

Some interviewees stated or implied that the TCVU does not understand or appreciate the realities of work within youth detention. For several operational staff, we gained a sense, as interviewees, that they see their core work is custodial, with risk management the primary consideration as opposed to rehabilitation. This was apparent in discussions about the use of CCTV cameras in bedrooms and the privacy issues highlighted by TCVU reporting.<sup>157</sup> A unit supervisor asserted that observation is necessary to monitor what is happening in the units and took the view that the CCTV surveillance should be accepted as a justified measure that keeps young people safe and, if it is not available, “someone might die”. They added, “some things aren’t nice, but they’re in place for a reason.”

Similar views were expressed about the use of an invasive routinised procedure such as “squat and cough” during semi-naked searches and the application of restraint measures. It was argued that these are used as a “last resort”. When these views were explored in more detail, some staff responded that there were no alternative options available.

Another staff member implied that the TCVU was partly responsible for detainees starting to lose respect for staff. They conveyed that when detainees say they are going to ring the Guardian, “we feel that the tool-box is being emptied”; that is, something is occurring that affects the pre-existing relationship between staff members and detainees. Another interviewee stated that, at one stage, “too many” detainees were ringing the Guardian, “so we had to put a stop to it”.

We note that one detainee who had an ongoing relationship with the TCVU said that he felt under pressure when seeking advice or advocacy because one staff member “calls me a ‘snitch’ because I call you a lot.” For more discussion about this issue, see Attachment 2)

A separate observation was made that management can “manipulate” the situation by attributing something to the activities or recommendations of the TCV when this may not be the case. Two staff

<sup>156</sup> A process that will happen with this Inspection Report, albeit in a COVID19 affected environment.

<sup>157</sup> Visiting Program and Review of Records Term 4 2018 Report <http://www.gcyp.sa.gov.au/wp-content/uploads/2019/09/2018-TCV-Term-4-AYTC-Visiting-and-Review-of-Records-Report.pdf>

interviewees said that they felt under pressure to go through management first rather than approach the TCVU directly in relation to a situation in which staff “haven’t been educated” about the TCV function.

More positive comments were also made about the TCV role, sometimes relating to specific incidents or detainees or the presence of the TCVU through the Visiting Program but also with regard to the Inspection: “It puts them on notice upstairs to pull their socks up.”

One staff member queried whether the TCVU supports behaviour management. We took the opportunity to speak about the TCV’s role in advocating for trauma-informed, consistent and child-centred approaches to behaviour management in custodial settings.

# PART D

# ATTACHMENTS

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- Attachment 1 References
- Attachment 2 The views of detained children and young people at the Adelaide Youth Training Centre: a thematic paper (Dr. Simone Deegan)
- Attachment 3 Training Centre Visitor 2019 - Pilot Inspection Standards and Indicators
- Attachment 4 TCV letter inviting AYTC staff to personal interviews (November 2019)
- Attachment 5 DHS Youth Justice Response to Request for Information – TCV Pilot Inspection 2019 (Received 23 December 2019)
- Attachment 6 *Charter of Rights for Youths Detained in Training Centres*

# ATTACHMENT 1

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## ATTACHMENT 2

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### **The views of detained children and young people at the Adelaide Youth Training Centre: a thematic paper** **Dr. Simone Deegan**

*Dr Simone Deegan prepared this thematic paper to be an attachment to the Training Centre Visitor's (TCV) report on the November 2019 pilot inspection of the Adelaide Youth Training Centre. She drew on a working, and necessarily confidential, paper prepared by the TCV Unit that consolidated all 34 individual detainee interview texts and the write up of the Detainee Focus Group session.*

*We summarise Dr Deegan's thematic paper In Part 4 of the main inspection report. The intention of both of these accounts is to amplify the voices of the detained children and young people while protecting their privacy.*

According to the *United Nations (1995) Standard Minimum Rules for the Administration of Juvenile Justice*, Rule 26.1., "the objective of training and treatment of juveniles in institutions is to provide care, protection, education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society" (p. 14). More locally, the South Australian *Charter of Rights for Youths Detained in Detention Centres* (s.22 Youth Justice Administration Act SA (2016)) clearly

sets out the rights of this uniquely vulnerable group, as well as training centres' obligations for their care and treatment.

On average, and on any given day, around 980 children and young people are detained in youth detention facilities around Australia (Australian Institution of Health and Welfare, 2018). Presently, around 2% of the population are Indigenous (i.e., identify as Aboriginal or Torres Strait Islander) with the figure being around 6% for the 10-17 year age bracket. However, such persons, as a group, make up 54% of incarcerated young people nationally (Australian Institution of Health and Welfare, 2018).

In November 2019 the Training Centre Visitor (TCV) conducted an interview process to seek detainees' views at the Adelaide Youth Training Centre (AYTC), for the purpose of Inspection. A focus group of six young males and (on a separate occasion) a focus group of two young females were subsequently convened in December 2019 to further discuss issues raised during the November interviews. Conversations with these young people—their struggles and their views regarding what is working well and *not so well* for them in custody—form the basis of the current piece. Emerging as children's and young people's primary concerns were a strong sense of fatalism regarding their means for shaping their own destiny whilst in lock-up; loss of freedom; strictness of rules/bureaucracy; antagonism with youth workers; bullying; inadequate service provision; and a lack of meaningful contact with family and the outside world. Prior to examining these scenarios, however, it is important to offer some contextual information about the project from which the narratives are drawn.

## Context

As at November 2019, 39 individuals were detained in the AYTC and approached about their potential participation in a semi-structured interview for the purpose of Inspection (lasting between 45 minutes and two hours). After receiving the explanation that participant responses would remain anonymous, all participants gave their verbal consent, and any specific safety concerns would be followed up by interview staff. It was also made clear to young people that they could refrain from answering questions or terminate their participation at any stage. In all, 34 young people (or 87% of detainees) elected to be interviewed for the project. At least 11 of these young people were known to be under the guardianship of the Chief Executive of the Department for Child Protection. The actual number of young people under guardianship of the Chief Executive was unable to be provided by the Department for Human Services, despite request. Of particular relevance to this report, three quarters (n=79%) of participants were male. Six were female (18%), and one young person identified as gender questioning. As at the time of interview, participants were aged 13 to 18 years (13=4, 14=3, 15=8, 16=7, 17=9 and 18=3). The proportion of Aboriginal children and young people who participated (41% compared with 59% of non-Aboriginal children and young people interviewed) was *lower* than the proportion of Aboriginal children and young people admitted annually to AYTC.

## Results

There are a number of major themes emerging from this Inspection which “touch, more or less directly, on the issue of agency and detainee/prisoner responsibility for their life course (where each has come from, where each is at and which path each ‘decides’ to walk in future)” (Halsey, 2008, p.97). These themes can be summed up as follows: understanding rights and responsibilities; equity and fairness; children’s and young people’s voices; health and wellbeing; access to education; relationships; and institutional culture.

## Theme 1: Understanding rights and responsibilities

The first theme relates to detainees’ ability to understand what was happening to them and why. In spite of multiple admissions/frequent contact with the youth justice system, the young people at AYTC reported unfamiliarity with the *Charter of Rights for Youths Detained in Detention Centres* (i.e., the Charter). Twenty-five children and young people (74%) were unable to recall any of the rights contained therein. Their lack of understanding appeared to be intensified by the alienating environments of the courtroom and training centre. Studies routinely demonstrate that being scared, humiliated and depersonalised on reaching custodial settings features prominently in the experiences of young offenders (Lyon, Dennison, & Wilson, 2000). It is also well established that those in secure care and prison are often living with cognitive and intellectual disorders (Dias et al., 2013; Kumwenda et al., 2017). In one recent Australian study, 89% of young people were identified with at least one neurodevelopmental impairment in the severe range, including 21% with impairment in cognition (Bower et al., 2018). At least one participant in the current project remarked that the Charter contained an overwhelming amount of information and that they would read it if it was presented in another format. Against this background, agencies need to take seriously the way critical information is delivered to children and young people—and the timing of such—to ensure that young people are supported and their wellbeing protected.

Two interviewees were new admissions and had not previously been in detention. When asked what their admission process was like, one young person said the following:

*“It was alright—weird—the unclothed search made me uncomfortable because of my sexual abuse in the past.”*

Another reported that having “learned about this place” in the community caused him to feel “shame” when subjected to a semi-naked search. The same young person said he was “scared” because “I don’t

like the rooms and can't sleep in there." Others described the admissions process in more positive terms:

*"I thought it would be orange and shackles ... I thought 'What the fuck?' [but] in a good way. There was good food. I thought I would be jumped but they [i.e., the other young people] didn't."*

One young person reflected that the Charter "doesn't ring a bell" but thought that it may have been mentioned in the video he saw when admitted in his first detention. Another said, "I've heard of it. I've seen it on a piece of paper [but] I don't know what it means." Three detainees specifically noted that the unit walls contained copies of the *Charter of Rights for Children and Young People in Care*, not *detention*. Certainly, in this small cohort, there was a mix of declarative statements regarding the "upshot" of the Charter in more general terms:

*"You're entitled to good food, but what's good food?! It's too vague."*

*"They say we have rights but when it comes to having rights, we don't ... it doesn't happen."*

*"[It is] the right 'to be safe and ok'."*

*"Good food, feel safe, culture, education— [but] it's very vague and you can't enforce it."*

*"It's basically all bullshit."*

Running across the first-person accounts was detainees' sense of not knowing what they were supposed to do or what was happening in certain situations, particularly if they felt mistreated or provoked. Not understanding the consequences of their actions compounded the emotional and developmental difficulties that young people suffered and led to destructive ways to cope and learn. Like the participants in Talbot's (2010) study of juveniles in detention, there was a definite sense of young people trying to learn as they go, getting things wrong and being corrected by staff. A young person in that work was asked how he knew what the prison rules are. His response was as follows:

"That's easy. You know the rules when you break the rules" (p. 37). For those at AYTC, this resulted in a decrease in social interaction and increased feelings of helplessness. For example, certain of the young people remarked, "I withdraw to my cell" and "It would help to be able to chat to a friend and have a hug—but this does not happen as you are not allowed to hug here." When asked "If you are not happy in here, what can you do? Where can you go?" one young person said, "You just have to stay unhappy and wait for the next day." In response to being asked about being happy, one young person asked their own question: "Is that something you can do? Probably not."

## Theme 2: Equity and fairness

A number of young people in detention expressed doubt about their ability to take responsibility and to be heard in relation to a range of matters affecting their self-efficacy and coping. For example, one detainee said that there was no significant difference between how staff saw and treated him on the unit in which he was detained and in the dysfunction of his life outside:

*"Everybody ignores me in here; they think my reasons are pointless, [which] makes me feel like shit. It's how I've been treated my whole life, basically."*

In some cases, young people expressed the view that there was a direct link between their lack of agency and the likelihood of poor behaviour and incidents on the units:

*"We have no voice in here, [the staff] take over and this is why we go schizo ... acting up, swearing [and so on]. Injustice makes me act up."*

Others indicated that they felt if they spoke up someone would hear and help:

*"They are trying to help us in here to be good. I don't want to end up in the big jail. I want to get a job, get paid."*

Concern for the treatment of other young people was expressed by many detainees, who reported

speaking up about how to treat other people in the unit (referring to respect for others). One respondent reported seeing people treated unfairly “every single day” and that from their perspective, there are “at least one or two” problematic staff in every team. Examples of perceived unfairness (as distinct from bullying/harassment) included, but were not limited to, favouritism/differential treatment; inconsistency of rules/punishment; and frustrations relating to the Phase privilege system. In particular, the perception of favouritism was reported to give rise to bullying and related behaviour:

*“It seems unfair [i.e., that a person gets treated preferentially] and everyone hates the resident for it [especially when they get] different consequences.”*

*“Staff are humans: it’s obvious [they have favourites].”*

*“When I tried to complain about different treatment, they [i.e., staff] say it’s none of my business, and I want to say, ‘I am affected—it is my business!’”*

Some young people interviewed showed compassion for other young people they perceived were struggling in the environment. It appeared there was interest in peer mentoring or support opportunities but not a system to formalise this.

A long-term detainee remarked that they “[felt] a bit attacked by staff” after being sent to Frangipani Unit (the Centre describe this as the protective actions unit, although young people recognise this as a punishment or regression unit) after staff did not believe his version of an incident. The expectation of children and young people that staff place the highest premium on fairness and equity was further challenged by the impact of detainees with severe and complex mental health issues. A situation was described where a seriously mentally unwell detainee was said to be “not safe” because they had access to “unfair” privileges denied to other young people. A practical solution, that “there should be a disabled

unit in here like they have in schools”, was offered by one respondent. Interestingly, detainees also noted that “some kids talk shit to staff” to test them when they are new. Someone else reflected that workers were “too lenient on naughty kids sometimes”. In such circumstances, it was possible for them to understand how youth workers ultimately felt it necessary to privilege the disciplinary aspects of their work over all other dimensions.

### **Theme 3: Children’s and young people’s voices**

In relation to specific programs and processes, the overwhelming majority of detainees agreed that they felt empowered to speak up if they had a complaint. Nineteen of the 31 children and young people who responded to this question (61%) said they had made at least one complaint while detained at the AYTC.

*“Yeah, you can say something if you are not being treated right.”*

*“Yeah, about how the unit runs, I go to the YAC [Youth Advisory Committee] meeting. The case conference only talks about school or what happens when I get out.”*

*“You’ve gotta let staff know—they’ll help you out. I’ve found them really good.”*

This, however, stood in stark contrast to the belief or expectation that anything constructive would come from voicing their concerns.

*“Well, I do speak up and raise issues, but they [i.e., staff] just say ‘Just worry about yourself.’”*

*“To an extent, they are pretty reasonable. If something is really unfair we get to speak up, but it doesn’t always change it.”*

*“I can talk to someone—sometimes staff... I have a voice but no-one listens.”*

Young people in AYTC reported their interest and willingness to take on active roles in specific programs designed to promote a sense of agency and responsibility (i.e., YAC; case conferencing;

mediation; Resident Incident Forms (RIC)). The following outcomes were noted by children and young people:

*"We wanted an Xbox—and that happened [through YAC]."*

*"[Case conferences] assume what is right for you without asking."*

*"[Case conferences] felt like I could talk up because I knew a few people in there."*

*"I went to a case conference and felt heard."*

*"[RICs] are useful; it depends."*

*"[Filling in a form] can't really stop those things from happening."*

*"They said I'm talking shit. No point writing my side of the story [on a RIC] if they're not going to consider it."*

*"I think some of the questions [in the RIC forms] should be easier to understand."*

Most young people were critical of formal dispute resolution processes and frustrated by what they saw as petty rules and procedures:

*"[There are too many] bureaucratic and inefficient processes to feel like we have a voice. The egos [of those in charge] get in the way."*

*"Nothing ever changes—if it does, it'll be down the track and we won't be here in the Centre."*

Opportunities for problem solving and perspective taking were often seen to be overridden by management practices that were primarily concerned with conceptions of risk and danger:

*"Everyone is about covering their arses."*

*"'We are looking into it,' ... but nothing happens [when responding to a complaint]."*

*"Have an interview—a face-to-face discussion—that would be better."*

*"They could just talk to us; it's important to talk."*

*"The residents are safe and secure, but they also view us as a lost cause. It's accepted in society that we will inevitably end up in Yatala. That reflects here on the residents whether they realise it or not."*

It is positive to report that a clear majority of respondents did not indicate that they had been prevented from approaching the TCV/Guardian:

*"Staff encourage it! And say, 'Talk to the TCV if you have a problem.'"*

*"No [I haven't been prevented], but there may be a long delay and the priority is low."*

*"The staff just say, 'Go do it in to the Guardian then.'"*

However, this has to be balanced against the issues raised by the minority of detainees who said that contact with the TCV/Guardian has been impeded or undermined by staff at AYTC:

*"If I make a complaint about staff, they bring my scores down; this makes me angry."*

*"There's a culture in here that trickles down from staff and management that if you call the Guardian, they will look down on you. It makes me feel powerless."*

*"I've had hope taken away. I asked to ring you. They said, 'No point, mate—they can't do fuck all about it.'"*

#### **Theme 4: Health and wellbeing**

For a particular group of young people, custody can present as offering better access to such basic things as food, health care, television, video games and recreational facilities (Halsey & Deegan, 2014, p. 6). Adolescents detained or confined in correctional care facilities have been shown to have numerous health problems, including mental health; disability (including foetal alcohol spectrum disorders); substance misuse; sexual health, including sexually

transmitted infections; and trauma (Australian Institute of Health and Welfare, 2018). Autism, ADHD, PTSD, schizophrenia, anxiety and depression were among the diagnosed conditions reported by young people in AYTC. Twenty of 31 (65%) respondents indicated that they believed their physical health had improved while in detention (subject to certain caveats). For young people at AYTC, custodial facilities were noted as providing regular opportunities to detox, sleep, gain weight and “catch-up” on aspects of their health care that were otherwise neglected in their lives outside the facility:

*“We get treated and our needles up-to-date, and they care; we don’t get that on the outside.”*

*“Doctors helped me with my acne [and the] nurse organises my meds.”*

*“When I grew up there was no money, no food in the fridge or the cupboard—I broke into people’s houses for food.”*

Some complained that their weight gain had been excessive due to oily and high-carbohydrate food (including white bread) and lack of exercise.

A number of detainees reported that access to health and social services amounted to the best “care” they had ever experienced—easily surpassing that available to them in the community. One young person contrasted being on anti-depressants “in here” with being “on a lot of stuff [i.e., illicit drugs] out there”. Another gave health services “eight out of 10”, saying he had seen the dentist, had been immunised and was happy about this (and pleased that his views were sought: “They asked which arm I wanted it in, and that was good.”) While speaking positively about the services offered and the “nice staff”, several detainees raised practical concerns about access to the health service, such as staffing issues and demand on resources that could prevent appointments (as well as the recent amalgamation under the Dynamic Model) from proceeding:

*“I have asked to see the nurse and optometrist for months... I don’t know how it works; staff email a nurse, and the bureaucracy gets*

*in the way, and you end up in a vortex and nothing happens.”*

*“I don’t see doctors very often because of no mixes [of genders]. It’s too hard.”*

In the case immediately above, the young person said that he had only just seen a doctor after requesting an appointment for six weeks. Several suggestions were made about accessibility and responsiveness: “Having a doctor come more often would make it better; so would a nurse visiting the units every day.” The case was repeatedly made that having a doctor present on the Goldsbrough campus only one day per week is not enough. As a means of cutting through what was seen as excessive gatekeeping regarding the health service, one young person purported to make up alarming but “bullshit” reasons to be seen: “Last week I told them I needed to see a doctor because I was bleeding out of my arse.” As he opined, “It would be better if we could just ring them and ask to see them on Thursday—like an actual service.” Another area of serious concern is that “staff want to know why you want the nurse”, with the suggestion that this puts children and young people off making appointments. Similarly, when only male staff were rostered onto the female unit, young women reported “having to ask male staff for embarrassing, private stuff” over the intercom so that “everyone in the office hears you ask”. Clothes were another point of concern, which was found to have a particularly negative impact on young women. Crop tops were “ugly and uncomfortable” and “uncomfortable and unsupportive”, and it was perceived as “unfair” that boys and girls wear different colour tops. One interviewee simply wanted “better shoes”, while another complained, “My shoes ... the soles got ripped up.... I filled out a form on Saturday, I ordered my new shoes at least a month ago—I’m still waiting.”

Many young people advised that they had experienced worsening sleep disturbance, which they attributed to anxiety regarding the uncertainty of their current situation, together with pending court dates. Being on remand made it difficult for case workers and for the young person to set specific goals, which in turn, engendered frustration and sometimes found expression in disruptive

behaviour. Access to effective sleeping medication was a common issue to emerge. Young people also consistently emphasised the lack of quality support for dental and general hygiene. One detainee reported asking the doctor for mouthwash, which was refused on grounds it was too expensive. The young person commented, "I'm still angry about that." This extended to a broader critique about the quality of products provided: there is no dental floss; the toothpaste is "disgusting"; the shampoo and conditioner provided to young people on Phase One "smells disgusting". Other comments indicated "health" frustrations more broadly associated with living in the AYTC environment. Suggested improvements included

- ▶ support for healthy lifestyles, including regular access to the gym, irrespective of Phase level;
- ▶ more physical activity and less time spent "locked down" in rooms;
- ▶ an exercise program for learning;
- ▶ healthier meal options.

### Theme 5: Access to education

Education is widely accepted to open up new horizons and pro-social networks for young people caught up in the criminal justice system. As previously observed by Halsey and Deegan (2015, p. 219), "although education is mandated in juvenile custodial settings, it is far from an ideal learning environment. Too often classes devoted to academic learning devolve into classes where management of difficult behaviour becomes the norm". All detainees were asked the question Do you get the education or training you want in here? While there was a broad mixture of positive and negative responses, most young people commented that educational and vocational services in AYTC increased their self-efficacy, sense of achievement and self-esteem, while breaking up the monotony of the day.

*"You can get educated in here. I want to do TAFE."*

*"At least I'm doing something: getting educated in here rather than doing nothing."*

As compared to mainstream school, smaller class sizes, SSOs (i.e., School Services Officers) and helpful teachers were identified as having a positive impact on their learning.

*"The teachers are really good.... They'll try to help you do some work."*

*"It's good because you get one-on-one support."*

*"Staff do what they say they'll do."*

However, young people were also vocal about the limitations of the current one-size-fits-all approach to their education:

*"[I'm] learning things I learnt in Year 3 and 4, like adding up."*

*"The subjects are childish. Yesterday, they tried to give me baby work—like how to spell "and"... I can spell big words."*

*"Standards are low because of the other boys."*

*"We all get the same work."*

*"I've had a shitty education experience [no detail]."*

The extent to which the training centre environment was directly at odds with meaningful education was particularly pronounced for high-achieving students:

*"[Education in AYTC] hurts me a lot ... [it] causes depression and anxiety. Outside I loved ... learning new things.... I come in here and I'm wasting away."*

Another detainee went further and explained that they would like to obtain a diploma, but this was impossible because the internet could not be accessed for study and no accommodations could/would be made. Other, more frequently cited, impediments to educational attainment included staff-related lockdowns and/or the disruptive behaviour of other students:

*"Classrooms are loud and there is too much mucking up and then we all get sent back to the unit ... which is unfair for others who are not doing that."*

*"If one person acts up, we are all locked down. It doesn't matter which unit acts up: girls, boys or little boys."*

*"[Some teachers] just supervise. I have not been in any class where there is any teaching."*

Some detainees disclosed that they had not attended school "on the outside" for several years: "When I was on the outside I got kicked out of school; I am not a big fan of school." This young man noted, with regret, that he strived to do well at school but struggled with the academic requirements and conceded that his behaviour was less than acceptable due to his own and other's negative expectations, including some teachers who viewed him as a troublemaker and destined for failure. He reported that he "kinda likes" school at AYTC and would appreciate more support with the work, but this is hard to get, as he does not know the teachers very well. Another young person observed the impact of bespoke, unresolved trauma as undermining student success at AYTC:

*"Mainstream models of schooling don't work ... let alone us in here with PTSD, ADHD."*

*"These kids have learnt to fight to survive—it's all survivalist."*

The excerpts relayed above offer a small but significant glimpse of the challenges faced by young people who try to resume their education in AYTC. As their comments demonstrate, "the most effective programmes in youth detention are those designed to meet the needs of individuals, based on the assessment of multiple possible contributing factors such as prior service involvement, previous assessments, school reports, and familial and social histories to identify ... stressors which may impair individual functioning" (Hamilton et al., 2019, p. 139).

*"I don't want to learn at a desk. I want to learn about cars, mechanics ... learn about things I am interested in."*

*"I don't really like school [but I want to be a mechanic]."*

*"It'd be better if they ran more certificate courses so we could get jobs."*

## **Theme 6: Relationships/Connections to the outside world**

It is widely accepted that justice-involved youths are vulnerable before, during and after incarceration. At the same time, a growing body of research recognises imprisonment as a "family ordeal as opposed to an individual experience" (Halsey & Deegan, 2014, p. 2). During interview, young people consistently emphasised that relationships, particularly peer and family connections, can and do play centrally important roles in influencing their behaviour, feelings of coping, hope and the path each "decides" to walk in future. The reality of isolation from the community was highlighted by one young respondent, who said that she was "scared I will lose my nanna while I am in here" and that "I am not able to hold her hand." Another reflected, "My nanna's and [other family] once visited ... for my birthday. Eleven people came. It's a bit sad when they go—you want to go with them." For those in various justice settings, keeping in touch is fundamentally restricted to the devices of letter writing, (monitored) phone calls and visits.

### **Phone calls**

Maintaining phone contact with friends allowed detainees to retain a sense of normality, without which, friendships are "different when you get out". Several participants responded that both visits and phone calls "work okay" and have "been pretty good" and that the contact "is enough".

*"Phone calls are pretty good. I ring my dad and sister."*

*"I ring my nanna. They won't let me call friends. I can't get the numbers."*

*"When you come, they ask you who you want to contact: their phone numbers (my nanna's, my auntie's), their address. They ring them up and ask if they can get their number approved."*

For young people with incarcerated parents, making arrangements for telephone contact proved particularly challenging and distressing. However, more common grievances at AYTC included delays and restrictions getting phone numbers added to approved call lists:

*"I am in care [and] I cannot get my boyfriend approved because DCP [Department for Child Protection] won't do it."*

*"It should be one or two days [but it takes three working days to get a number placed on the phone list]."*

The perception of undue delay added to the frustration, hardship and sense of despondency for those detainees who needed to speak to family and friends ahead of a scheduled court appearance:

*"I want to know whether I can live with my mate.... I need to know by court on Friday, but I can't ring and ask him. My caseworkers need to be able to speed stuff up. You need to be able to contact the caseworker directly—not have to ask the staff every half an hour."*

When asked what could be done to make phone calls "better", respondent suggestions included the following:

- ▶ Allocating more calls as necessary: "when I need to calm down or if I have a beef";
- ▶ Privacy: one child stated that he finds it difficult to talk to his mother when he knows people are listening;
- ▶ Allowing phone calls earlier in the morning and after 9.15pm (for older detainees);
- ▶ Allowing longer calls;
- ▶ Allowing calls to numbers awaiting approval while staff are in the room;
- ▶ Allowing calls to family in the morning (not afternoon only), so that visits can be organized

## Visits

For some young people, visits do not really happen. Sometimes this is by choice, with at least three detainees making the decision to forgo all phone calls and visits while in detention.

*"I told my family to stop coming."*

*"I don't get visits. I don't see my family when I'm in here."*

*"I don't feel the need to call people."*

For others, geographic dislocation from significant others emerged as a major concern. One young person related that he had only received a single visit since admission, and two other young people said their only visits were from "my Home D worker!" For families residing interstate or in regional towns, visits were especially difficult without a means of reliable transport. One young person accounted thusly for his lack of visits: "They don't have a family car anymore." The latter also noted that he had the expectation that his DCP worker "is meant to come visit" every two weeks, but he has only seen him twice. For those receiving regular visits, family impressions of the Centre included a broad mix of commentary:

*"[They] probably feel sad to see me behind bars."*

*"They think it's shit."*

*"[The AYTC] looks pretty but feels fucked."*

*"[It causes] a lot of stress to be here, especially for my Dad—the fact that it is a prison."*

*"They want to use the grounds for visits and are disappointed that they cannot."*

Predictably, a great deal of discussion surrounded the dehumanising aspects of the visitation process. Issues identified by detainees included that

*"[Staff] are watching: I sit here, they sit there [i.e., family visitors]."*

*"There is a strip search afterwards. I don't like that; you have to squat and cough."*

*"[There is a need for more privacy.] You can hear everyone's conversations."*

Failure to advise families ahead of time that visits were cancelled added further stress to an already difficult situation. Insufficient information regarding visiting procedures and protocols similarly heightened the frustration and sense of disempowerment for young people and their visitors. Those with younger relatives observed that the family room and playground were only there to "trick you", as young children wanted to go outside and play on the equipment but were told that they could not (with the play equipment reportedly being out of bounds for years). Another young person mentioned that

“Nanna” comes weekly for an hour but that “it is too long!” and gets boring, so they would like to play games or show her their schoolwork and art. This is particularly important for young people with limited social or communication skills and needs who prefer to engage through playing or games. One detainee roundly captured this perspective:

*“Make the visitor centre look less like a prison, more like a visit—have tea and coffee. Be able to take in schoolwork or art to show my parents or my laptop so I can play them music I’ve created. It’s hard to describe music—I would like to play it for them. If we had the option to play cards or something, Connect 4, instead of just looking at each other with 10-minute gaps. A friend came and said, ‘Is it an hour yet?’ It was only 25 minutes. It’s awkward just sitting there.”*

### **Theme 7: Custodial climate—Safety and treatment**

AYTC’s principal mission is to provide young people in custody with a “safe, secure environment which encourages inspirational change” (Department of Human Services, 2019). Thirty-one children and young people responded to the question Do you feel safe in here? Twenty (64%) said yes, three said no, eight indicated “sometimes” (26%) and one said, “I don’t know.” The situation for children and young people feeling unsafe was described in the following terms:

*“I don’t feel safe. I have PTSD. It depends on staffing. If there are two female staff and one male, I feel like I will get jumped [by other residents] because there is not enough [male staff] in the unit.”*

*“Lockdowns make me feel nervous.”*

*“I’m not always emotionally safe.”*

The young person who responded “I don’t know” elaborated:

*“Some workers do help, some don’t. [They] ‘set the feel’ for if you feel safe. If good staff outweigh the ‘bad’ on shift, it will be a ‘good’ shift. ‘Bad’ workers are the minority. Good workers act ‘normal’ and just speak normal*

*to you, [whereas] some talk down to you as a boss and I want to punch them in the face.”*

For those who said they did feel safe, they made the following observations:

*“I know I won’t get bashed. Staff would do their job as they respond and know what is going on.”*

*“If there was a fight, the workers would break it up.”*

*“Staff help me feel safe.”*

*“There are some really good workers here who know how to handle situations.”*

Accordingly, detainees drew distinction between feeling physically and emotionally safe. Young people who responded that they felt safe “sometimes” gave nuanced explanations, making the following observations:

*“When a staff member is very rude and says things like, ‘No wonder no-one likes you.’”*

*“When I was 10, I was locked up. I’ve spent three birthdays over there [Jonal campus] and two in here [Goldsborough]. The first time, I was 10. It was scary.... I was with 18- or 20-year-olds when I first came in.”*

*“Sometimes there’s fights and stuff.... [I] just try and stay out of trouble.”*

Comments from those who reported feeling safe were also nuanced and contingent on the awareness and ability of staff to respond in an appropriate and timely manner.

*“When I first came in at 12 years old, I was in the games room and they [i.e., other residents] would threaten me. I was scared of them and I was too scared to tell staff—one [resident] was 17 years old.”*

*“I feel like there are ghosts in here [at night], tapping and knocking on windows and buddy doors in the rooms ... but I feel safe from staff and other residents.”*

*“Staff help me feel safe. If I’ve got a beef against someone, I have to do mediation with them so nothing happens and there is no*

*fighting. You talk, you say sorry, you become friends... Some people hurt themselves in here. I hurt myself in here when I was angry. Staff will help and talk about what we can do better."*

Issues of safety aside, and regardless of the reasons for their detention, children and young people considered themselves to be "locked up" in "prison". Further comments were added here about the use of cameras as an infringement on children's and young people's personal privacy, reflecting an issue raised many times previously during the TCVU Visiting Program:

*"I withdraw to my cell, which it is. The public don't want to know we are locking kids up; that is why it is called a training centre and not a jail."*

*"At the end of the day, it's a jail in here."*

*"The cameras are on all the time—they tell us the cameras are off, but when I put my mattress against it, the staff come in and tell us to take down the mattress. If it was off, they wouldn't see the mattress!"*

## **Bullying**

Bullying was a major feature of the training centre culture. For young people at AYTC, it was taken as an entrenched and inevitable part of the initiation and training centre hierarchy process:

*"Of course there's gonna be bullying. I've been called heaps of names. Staff tell you to deal with it personally."*

*"Yeah, there's heaps of bullying, talking shit ... we're bored, or you just don't like [someone]."*

*"When you first come in [you have to establish] the pecking order."*

*"You can punch someone in the back of the head in the games room because neither camera can see from that angle."*

Twenty-six respondents who answered the question about whether bullying occurred at AYTC indicated that it did, in a number of forms: "They [i.e., staff]

miss 70% of it because it's so subtle." A typical observation was that "I [got] bullied when I first came in, but everybody does." Factors such as race, ethnicity, crime committed, appearance and sexuality were oft-cited subjects of verbal taunts (e.g., "Some kids get picked on for acting gay.") In one example, a young person recalled an offensive "detailed discussion" between staff and detainees over dinner about homosexuals". Those who were "weak"—on account of age, immaturity, or "how they hold themselves"—made attractive targets for victimisation. When asked whether they felt if they *could really be yourself in here*, one young person responded, "You need to pretend to be tough so other kids won't target you. I feel pissed off; I want to take off my mask and just be who I am." On the other hand, in an anomaly in relation to these behaviours, young people also advised they had taken detainees who need help "under their wing" in an attempt to protect them from bullying or other predatory behaviours (i.e., "standovers"). Some compassion was shown for others, including in a situation where several detainees approached another to attack someone:

*"I don't know why ... they look at me and want me to run him down. I don't. We're all humans; I have no beef with him."*

Most children and young people were reluctant to approach staff openly about bullying for fear of being labelled a "dog" and subject to further victimisation (e.g., "I prefer to look after myself" and "[I always say] 'No comment' because I am not a snitch.") Coping strategies typically involved avoidance and social isolation. There was also perception that staff would only intervene if and when actual physical contact was made.

*"Residents ask for help, but not in an appropriate manner (i.e., through incidents). A cry for help is taken as acting out."*

*"Staff don't stop no bullying; they don't give a fuck. They just wait for it to get physical!"*

## Respect

According to the experiences of the young people in this report, institutional disrespect, cultures of suspicion, isolated episodes of violence and authoritarian management styles permeate relations between youth workers and young incarcerated males (and females) at AYTC. According to detainees, it was vitally important that staff have a background in psychology or working with PTSD and other disorders. Instead, they thought most of them were former military, private security, or police service.

*"Some staff speak to you like shit [but] I can't crack up because then I lose Phase."*

*"It's hard to separate the 'good' staff from the 'bad' staff—it's very blurred. The culture needs to change."*

*"Yeah, I've been restrained. It felt shit, but I put myself in it.... Heaps of staff restrained me."*

Other examples of disrespect included "hitting you", "embarrassing you", "calling you names", "talking mean", "using sarcastic tone", "talking behind backs", "starting fights" and "swearing and yelling". As a concept, respect was characterised by reciprocity: if I get along with a person "and they respect me, I give it back". What is particularly apparent from interviews is that enhancing detainee wellbeing required considerable investment of time, energy and patience, especially in light of constraints within the facility environment:

*"Angry feelings get a negative response in here but sometimes angry does not mean that, and it needs staff to ask you 'What is wrong?' [As opposed to imposing a collective punishment.] If one person does a wrong thing then we all get in a lockdown or sent back from school."*

*"[Staff] interacting good and having a laugh [make me feel like] I'm being good and trying to get respect."*

*"You've got to earn your respect with young people in here.... I'll give respect to everyone [but not] if they treat me like shit."*

*"[If staff] are having a bad day they shouldn't make us have a bad day."*

Respect was described as—

*"Being treated nice";*

*"People not thinking they are big";*

*"It is being believed and not made to be a liar";*

*"Interacting good and having a laugh."*

Children and young people from across different units also provided positive examples of outcomes from some staff members with whom they worked:

*"Staff are heaps good—they talk to you in good ways, help you out, care about you. They are trying to help us in here be good. I don't want to end up in the big jail. I want to get a job, get paid."*

*"Talk to a caseworker: then stuff gets done."*

*"I ask staff to email them—the psychologist or the CAMHS worker."*

*"I like all the staff really.... I feel respected by staff but not the other girls."*

*"Some (workers) really care about kids."*

A particularly reflective response was provided by one long-term detainee for whom respect "is very important". He noted that staff "must recognise they have a lot more power than us" and manage this dynamic and responsibility appropriately.

Several young people also noted that any relationships they built up were often short-changed by their tendency to present as emotionally blocked, fearing labels from their peers and other staff:

*"I go to my room to be on my own.... [Talking to staff] doesn't really help.... I think they think I'm a weird kid."*

*"[I] sit outside. I don't ... talk to anyone I don't trust."*

*"I could talk to someone if I wanted to [but I choose not to]."*

## Consequences

Children and young people were asked about the kinds of “consequences” that are applied to them at the AYTC. Most respondents identified the following:

- ▶ Early bed (25 reported this);
- ▶ Other room restrictions;
- ▶ Lockdowns;
- ▶ DRMPS (at least 11 young people used this specific term (Dynamic Risk Management Plan), which was perceived as a consequence);
- ▶ Being sent to Frangipani (regression) Unit (10 reported this);
- ▶ Chores;
- ▶ Loss of Phase and associated privileges;
- ▶ Missing out (on school, gym, pool, oval, games room);
- ▶ Warnings.

The vast majority of respondents, while understanding why there had to be consequences, “could not grasp how the conditions to which they were [punished] could any way assist them to become a [‘better person’]” (Halsey, 2007, p. 349). Comments about being restricted to bedrooms included the following:

*“You can’t breathe in there... I feel lonely in my room.”*

*“I gave up as I got an early bed for picking a flower from the garden bed and having it in my room.”*

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# ATTACHMENT 3

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## Training Centre Visitor 2019

### Pilot Inspection Standards and Indicators Adelaide Youth Training Centre

#### Standard 1 – Residents are safe

- 1.1 Residents report they feel safe
- 1.2 The AYTC implements effective resident anti-bullying strategies
- 1.3 Residents with special needs or other vulnerabilities are provided with special care and protection
- 1.4 The AYTC environment facilitates safety and this occurs in the context of Child Safe Standards
- 1.5 Residents are supported in to make, maintain and/or restore relationships with others within the AYTC
- 1.6 Staff report that they are trained and resourced to work safely with residents

#### Standard 2 – Residents are treated with respect and dignity

- 2.1 Residents report that they feel respected by staff
- 2.2 Staff support young people to treat each other with respect
- 2.3 Residents report that they are all treated fairly
- 2.4 Residents report that they can have contact with people who are important to them
- 2.5 Residents report that the AYTC upholds rights established in the Charter of Rights
- 2.6 Staff report that the AYTC physical environment is conducive to treating residents with respect and dignity
- 2.7 Residents report that they understand and value the behaviour incentive scheme

#### Standard 3 – On admission, residents' educational, health and psychosocial needs are screened and assessed, and they are provided with immediate information about their rights and responsibilities

- 3.1 Residents report they receive a written and verbal explanation of
  - a) AYTC and unit rules
  - b) Consequences for non-compliance; and
  - c) the Charter in a language they can understand
- 3.2 Every resident is provided with information about the Training Centre Visitor upon admission
- 3.3 Education assessments occur as soon as practicable following admission
- 3.4 Assessments on admission have regard to the needs of the residents in respect of medical, psychological and psychiatric treatment
- 3.5 The psychosocial needs of residents are screened and assessed as soon as practicable following admission
- 3.6 Residents' immediate needs following admissions are identified through screening, assessed, and planned for

#### Standard 4 – The AYTC supports the identity and values of residents, including with respect to cultural, spiritual/religious and ethical life domains

- 4.1 Residents report that their aspirations, identity and values are respected and are supported
- 4.2 Residents report that their racial, ethnic or cultural identity has been not been impaired by their time in the AYTC
- 4.3 Residents can participate in practices and activities inside and outside the AYTC that reflect their values

- 4.4 Residents report that they have access to personally appropriate religious/spiritual or other advisors or representatives
- 4.5 Staff composition reflects resident diversity
- 4.6 Residents are provided with food that complies with their identity and values

**Standard 5 – The individual cultural identity of Aboriginal and Torres Strait Islander residents is recognised, and their beliefs and practices are supported, respected and upheld**

- 5.1 Aboriginal and Torres Strait Islander residents have access to cultural programs and activities that have regard to their age, gender, maturity and individual cultural journey
- 5.2 Individual cultural support plans are developed in conjunction with Aboriginal and Torres Strait Islander residents and their identified family or community members
- 5.3 Staff participate actively in cultural training and demonstrate culturally respectful engagement
- 5.4 Aboriginal and Torres Strait Islander staff are recruited and retained
- 5.5 Aboriginal and Torres Strait Islander residents have access to a culturally safe space within which to engage with family, community and support services
- 5.6 AYTC report that cultural referral and reporting requirements outlined in legislation and operational orders are adhered to

**Standard 6 – Residents receive appropriate health care services**

- 6.1 On- and off-site resident health assessment and treatment are operational priorities
- 6.2 Residents have access to regular psychiatric review and treatment in a consistent therapeutic environment
- 6.3 Residents are satisfied with range and responsiveness of dental services provided in the AYTC
- 6.4 Staff and residents report that resident health has not been impaired since entering custody
- 6.5 Health care services are available to residents when they need them

**Standard 7 - Restrictive, disciplinary or intrusive practices are used only when no alternative method is available and with due regard for residents' individual characteristics and right to privacy**

- 7.1 Residents are confined to safe rooms for the shortest period possible and in accordance with statutory requirements
- 7.2 Restraint is used as a method of last resort and never applied as punishment
- 7.3 Resident feedback is sought following the application of any restrictive or disciplinary practice
- 7.4 Residents are informed about their right to privacy, including in relation to CCTV coverage of bedrooms and toilets/showers and the application of semi-naked search processes

**Standard 8 – Education and training opportunities are accessible and reflect the aspirations of individual residents**

- 8.1 Residents report that they have access to education and training opportunities that meet their aspirations
- 8.2 Education and training opportunities respond to the needs of the individual
- 8.3 Residents have equitable access to education and training opportunities
- 8.4 Residents' right to education is not undermined by AYTC or YEC operational measures
- 8.5 Transition between pre- and post-detention education and training participation is effective

**Standard 9 - All residents participate in case planning and have a comprehensive case plan**

- 9.1 Residents report that their views inform any screening, assessment or case-planning process
- 9.2 Residents participate in case conferences and/or plan reviews and are provided with a copy of the most up-to-date version of their plan
- 9.3 Following assessment, all residents have a case plan appropriate to their mandate status
- 9.4 Residents on child protection orders have case plans that are coordinated with DCP

**Standard 10 – Residents access and value transparent grievance processes**

- 10.1 Residents report that they access a fair and timely grievance process
- 10.2 Grievance processes are transparent, accessible and responsive to the needs of residents
- 10.3 AYTC respond to systemic or operational issues identified through individual or group grievances
- 10.4 In addition to formal grievance processes, residents have access to and value a range of feedback opportunities
- 10.5 Residents are not obstructed in their right to access independent and/or external visitor and complaint processes

# ATTACHMENT 4

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## **TCV letter inviting AYTC staff to personal interviews (November 2019)**

### **We want to hear your views**

You are invited to express interest in being interviewed during the upcoming pilot inspection of the Adelaide Youth Training Centre (AYTC). The interviews are designed to ensure that operational staff views are included in the inspection process and inform the subsequent report.

What you say is confidential and no staff member will be personally identified in discussions or reporting.

You will be interviewed by a member of the inspection team assisted by a scribe also from that team.

The format is simple: we will pose a set of questions and you can raise any other issues that you think are relevant. Interview themes are introduced below.

### **Book an interview**

These 30 minute individual staff interviews will be held at the AYTC (available times are shown below).

Session times will be allocated on a first come, first served basis, so please indicate as soon as possible if you want to be interviewed. You can do this by forwarding a simple expression of interest, with your preferred interview time, directly to me at alan.fairley@gcyp.sa.gov.au

### **How else can you have your say?**

The inspection will be enriched by diverse staff views. We therefore invite your input in other ways should the process outlined above not work for you.

Please contact me if you want to pursue any of these alternative options –

1. send something in writing (preferably by 29 November)
2. propose an alternative time to meet at the AYTC (which you will need to clear with your supervisor to ensure operational coverage) (as soon as possible, but no later than 16 November)
3. you also can meet with us at the TCV's office in Gawler Place in the City (but we have been advised that this would not be approved as paid time).

We look forward to hearing from you.

Alan Fairley

Principal Policy Officer/Principal Advocate  
Training Centre Visitor Unit

## Available staff interview times

Interviews will be held at the following times, with places allocated on a first come, first served basis.

Interview Block 1 – Saturday, 23 November, 7:45 to 9.30 a.m.

Interview Block 2 – Sunday, 24 November, 8.30 to 10.00 p.m.

Interview Block 3 – Tuesday, 26 November, 8.00 to 10.00 p.m.

Interview Block 4 – Saturday, 30 November, 7:45 to 9.30 a.m.

Please send your expression of interest to [alan.fairley@gcyp.sa.gov.au](mailto:alan.fairley@gcyp.sa.gov.au)

## The TCV's Duty to Inspect

The *Youth Justice Administration Act 2016* gives Penny Wright, the Training Centre Visitor (TCV), the independent inspection responsibility for the Adelaide Youth Training Centre (AYTC).

The upcoming Inspection is the first. It will pilot some draft standards and indicators as well as inspection methods. These draw on legislative requirements and associated instruments: the *Aboriginal and Torres Strait Islander Youth Justice Principle*, the *Charter of Rights for Youths Detained in Detention Centres* (the Charter) and international covenants such as the *United Nations Convention on the Rights of the Child* (UNCRC). It also is informed by good practice guidelines such as those issued by the Australian Youth Justice Administrators Group.

The Inspection integrates with TCV Visiting and Advocacy functions that have been undertaken in the centre for over a year. This integrated approach spreads 'inspection' activities throughout the year rather than concentrating them within a single intensive Inspection event. For example, we review AYTC records quarterly rather than in a single annual process.

## Interview themes

Staff interviews will focus on five key themes

- ▶ Respectful relationships
- ▶ Responsiveness to the needs of Aboriginal residents and other individuals or groups with special needs
- ▶ Resourcing and the capacity to do the job
- ▶ Wellbeing and health
- ▶ Assessing and managing key activities/programs

# ATTACHMENT 5

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## DHS Youth Justice Response to Request for Information

### TCV Pilot Inspection 2019

Received 23 December 2019

#### 1. How are Child Safe Standards implemented at the AYTC?

The Department of Human Services (DHS) is implementing the national principles for child safe organisations, aligning what is already in place in South Australia through the Child Safe Environments (CSE) Framework. Responsibility for CSE transferred to the Department of Human Services (DHS) through Machinery of Government Changes that occurred in 2019.

In early 2020, the CSE team will conduct an audit of the Adelaide Youth Training Centre – Kurlana Tapa (AYTC) based on the CSE Framework.

Current legislation, policies and procedures in DHS Youth Justice are consistent with the standards.

For example, the Child Safe Standard 'People working with children are suitable and supported' is met by requiring that all staff undergo an appropriate background screening clearance prior to commencing their role at the AYTC. Employees of the training centre are required to undergo a psychological assessment. Staff must also complete Child Safe Environments training and are mandated notifiers.

All new entry-level staff to the AYTC are required to complete Certificate IV in Youth Justice within 12 months, delivered by the Department's Stanton Institute.

In addition, the AYTC has set ratios of staff in each unit, subject to resident numbers, a team of behaviour support officers work across the campus and supervisors manage day-to-day operations of the centre (including movements, visits, incident management etc.) and staff are not permitted to work alone.

The AYTC secure environment uses closed-circuit television in several areas of the facility, including all common areas accessed by residents, most bedrooms and all safe rooms, to increase the safety of residents and staff.

Every resident of the AYTC has access to independent support, advice and advocacy through the resident phone system. Calls to professionals are not recorded and are free. Services available to residents through their own PIN based accounts are: ALRM, Youth Legal Services, Legal Help Line, Kids Help Line, Lifeline and the Training Centre Visitor.

AYTC staff are required in accordance with Security Order 55 – Resident Phone System, through the use of Officer Initiated Calls to connect young people to any of the following services on request:

- ▶ The Guardian for Children and Young People
- ▶ The Police Ombudsman
- ▶ The Ombudsman SA
- ▶ The Health and Community Services Complaints Commissioner
- ▶ A Member of Parliament
- ▶ The Independent Commissioner Against Corruption
- ▶ The Office for Public Integrity.

#### 2. What has DHS/AYTC done in the period since 1 October 2018 to promote and support resident access to the rights guaranteed in the Charter of Rights for Youths Detained in Detention Centres?

In terms of promoting the Charter, young people are taken through an induction process that explains their rights, complaints processes and ways to contact the Training Centre Visitor (TCV) upon admission to the AYTC. The Charter is also displayed throughout the centre.

In accordance with the Youth Justice Administration Act 2016 (YJAA), the AYTC must seek to implement the rights guaranteed in the Charter to the fullest extent possible. This is achieved in a range of ways through service provision and support.

AYTC Orders have been developed in alignment with the YJAA, as well as the Charter.

For example, under the Charter a young person has the right to see a doctor or nurse whenever is needed. Young people have access to an onsite Health Centre which provides access to high quality care 5.5 days per week, with locum services utilised outside of this. Access to health care includes seeing a doctor, or dentist through the SA Dental Service. A young person being remanded to custody is medically assessed by a Metropolitan Youth Health (MYHealth) nurse as soon as practicable.

Since 1 October 2018, the following improvements/initiatives have occurred in relation to supporting access to the rights guaranteed in the Charter:

- ▶ The right to be treated with respect and dignity has recently been strengthened through practice changes in relation to resident privacy. Young people now have access to improved privacy curtains that cover both the shower and toilet area, as well as window covering when showering.
  - ▶ AYTC staff adjust work practices to accommodate specific requirements for each resident and when identified as necessary. The Youth Justice Disability Champions Network facilitated a practice forum for Youth Justice staff with disability experts. The Youth Justice Assessment and Intervention Service multidisciplinary team pilot project initiative aims to strengthen service responses and ensure alignment to best practice. Further, Youth Justice is working with the National Disability Insurance Agency to facilitate in-reach planning for young people at the AYTC.
  - ▶ A locum register has been established to ensure greater accountability, evidencing the attendance of medical professionals.
  - ▶ Metropolitan Aboriginal Youth and Family Services (MAYFS) is working to expand its services within the AYTC to increase culturally specific supports.
- ▶ The Department has committed to initiating a comprehensive independent review of all policy and practice related to security and operational matters, with a focus on isolation, segregation, mechanical restraints and the use of force.
  - ▶ The Department has also committed to reviewing all complaints and feedback procedures at the AYTC, to ensure the most appropriate practices and processes are in place. Young people will be consulted in this review. In the meantime, improvements have been made to include a new manager triage process and escalation to the Incident Management Unit where necessary.
  - ▶ The AYTC have reviewed processes and practices and have issued or are drafting GM Notices that seek to minimise time in room for residents on Restricted Routine, Structured Routine and Admission Routine and residents subject to modified routine due to staffing.

### **3. What does DHS do to ensure that the racial, ethnic or cultural identity of residents is not impaired by their detention in the AYTC?**

The AYTC is committed to providing an environment that allows residents to fulfil their individual identities and maintain a connection to their cultural, ethnic or racial background.

Under the YJAA, it is a principle that facilities and programs provided to young people are individualised as much as reasonably practicable, including taking into account cultural identity, religious beliefs and traditions from which the young person belongs.

Through the assessment processes, case coordinators capture and assess information about the unique circumstances of each young person, which is used to guide practice including accessing and facilitating a range of cultural, racial, ethnic or religious customs and activities.

Examples of cultural, ethnic or racial supports include a dedicated Cultural Advisor on site, Aboriginal staff and diverse workforce and Senior Aboriginal Advisor, access to cultural programs and activities such as the Yarning Circle, and Journey to Respect program provided by Child and Adolescent Mental

Health Service (CAMHS), the Circles of Trust cultural engagement tool, cultural awareness training for staff, celebration of various religious or cultural events, including: Sorry Day, Reconciliation Week and NAIDOC week events; Ramadan.

**4. What cultural programs and activities did residents from culturally and linguistically diverse backgrounds have access to in the period since 1 October 2018? How did these have regard to resident age, gender, maturity and individual cultural journeys?**

An African Support Group is facilitated by a Youth Engagement Officer from Multicultural Communities SA, to meet the needs of resident from varying African backgrounds. Support is provided in a group setting or individually for young people aged between 15 to 18 years of age. The group sessions were guided by the needs/wants of the residents and was gender appropriate with a male facilitator for male residents. The individual sessions were able to be further tailored to the age, maturity and individual cultural journeys of the young people.

The individualised case planning provides young people access to culturally appropriate supports while in custody, such as Multicultural Youth of South Australia (MYSA), MAYFS, interpreters and religious supports.

DHS Youth Justice acknowledges that improvements can be made in relation to the provision of programs and activities at the AYTC and that this is an ongoing priority.

**5. What cultural programs and activities did Aboriginal and Torres Strait Islander residents have access to in the period since 1 October 2018? How did these have regard to resident age, gender, maturity and individual cultural journeys?**

Youth Justice works collaboratively with partner agencies such as CAMHS to provide programs to young people, such as the Journey to Respect Aboriginal and Torres Strait Islander specific intergenerational violence prevention program. The program has been developed for Aboriginal males aged 15 years and older.

The Yarning Circle is facilitated by the AYTC Cultural Advisor. The activity is tailored for Aboriginal males. CAMHS is running 'Women's Business' which is a similar format to the Yarning Circle and available to female residents.

Other activities include a Reconciliation Week event and activities accessed by all AYTC residents, a NAIDOC week event and activities accessed by all AYTC residents and learning about culture and history. Case planning to meet individual needs includes agencies such as Incompro. DHS Youth Justice acknowledges that improvements can be made in relation to the provision of programs and activities at the AYTC and that this is an ongoing priority.

**6. To what degree does the composition of the AYTC staff cohort reflect resident diversity?**

It is the goal of the Department to create a workplace that reflects the community we service. The DHS Diversity and Inclusion Strategy 2017-2020 includes seven action plans to guide us to achieve an inclusive workplace culture and develop and retain our diverse workforce, to improve the quality of service we provide and ensure our people are valued for their individual skills, perspectives and experiences.

The AYTC celebrates diversity and acknowledges that further work is required to increase recruitment of staff from a broad range of backgrounds to the greatest extent possible. This will be given priority in the next intake of new Youth Workers in early 2020 and is also a key focus within the Youth Justice strategy, under development.

**7. What has been done to recruit and retain Aboriginal and Torres Strait Islander staff in the period since 1 October 2018?**

There are a range of actions under the DHS Diversity and Inclusion Strategy aimed at attracting, retaining and developing Aboriginal employees. This includes growing the Aboriginal Employment Register and promoting employment opportunities at job expos, such as the Port Adelaide Football Club Aboriginal Employment Expo.

We aim to be an employer of choice for Aboriginal communities through building a workplace that is inclusive and respectful of Aboriginal culture. We will build on initiatives to attract, retain and develop Aboriginal employees and provide real career pathways. Youth Justice has, for example, participated in the last 12 months in the DHS Aboriginal Trainee program, employing two Aboriginal people into Youth Justice.

DHS Youth Justice is currently working with MAYFS to design Aboriginal in-reach services at the AYTC to increase opportunities to build connections between young people and community-based services.

AYTC recruitment staff discuss recruitment opportunities with the AYTC Cultural Advisor, Aboriginal staff and agencies. The recruitment of Aboriginal staff will be given priority in the next intake of new Youth Workers in early 2020 and is also a key focus within the Youth Justice strategy, under development.

#### **8. What has DHS done in the period since 1 October 2018 to ensure that education and training opportunities respond to the aspirations and needs of individual residents and support their rehabilitative goals?**

The Youth Education Centre (YEC) at the AYTC ensures that young people can continue to access education and training while in custody.

Residents undergo a range of learning assessments through the YEC that support the development of a learning plan. Students participate in programs to improve literacy and numeracy, which are individualised to ensure each young person engages at an appropriate level and progresses successfully towards identified learning goals. Training opportunities, including Certificate II level qualifications, are provided through the YEC for residents as appropriate and have as their goal the rehabilitation and reintegration of young people into the community through employment or further training opportunities.

Youth Justice is represented on the YEC Governing Council and YEC leadership is involved in AYTC management meetings, to ensure education and rehabilitation goals are aligned and consider the aspirations and needs of residents.

An operational partnership group has been established which is intended to provide governance and track key KPIs regarding education attendance. While in its infancy, this group will look to meet fortnightly and track attendance, timeliness, contact hours, assessment timeframes, staffing related interruptions, education alternatives for young people unable to attend school.

#### **9. What has been done in the period since 1 October 2018 to provide residents with access to a transparent, accessible and responsive grievance process?**

Residents of the AYTC and their families can raise feedback and complaints through processes in line with the Department of Human Services Customer Feedback and Complaints Policy.

Upon admission, a resident is provided with information (both written and in the form of a video) that details how they can make a complaint or provide feedback. Wherever possible, operational staff seek to resolve verbal complaints made by residents locally and immediately. Where a resident complaint cannot be resolved in this way, or the resident would prefer to escalate to a senior member of staff, it may be referred to the Duty Supervisor for resolution, unless a conflict of interest exists in which case it can be raised with the Duty/On-call Manager.

Residents can also lodge a written complaint at any time to the Management team using the secure complaints box in each accommodation unit. All feedback is acknowledged within five days and responded to in writing by the relevant Manager within 30 days.

Young people can also be assisted to contact external independent bodies such as the Ombudsman SA and yourself.

The AYTC is reviewing its complaints and feedback procedure with a view to strengthening practice and processes. The voices of young people will be an important element of this review to ensure that the feedback process meets their needs.

In the meantime, operational improvements have already been made to the feedback system including a new manager triage process, as well as escalation to the DHS Incident Management Unit where necessary.

**10. What systemic issues have been identified and addressed through the operation of the AYTC feedback/complaints process in the period since 1 October 2018?**

The AYTC takes a continuous improvement approach to feedback received from residents, their families or carers, which can be received through a range of mechanisms including the feedback and complaints process, Resident Incident Comment Sheets, Youth Advisory Committee (YAC), or advocacy processes. The YAC at the AYTC provides a mechanism for residents to raise concerns, as well as participate in decisions affecting them. Examples of direct changes brought around through the YAC include: increased options available at the tuck shop and streamlined incoming mail processes.

While not specifically the feedback/complaints process, the Resident Incident Comments Sheets sought following each incident are reviewed by the AYTC Incident Review Committee and have led to learning, training and process/procedural outcomes.

Examples of systemic issues addressed through the feedback/complaints process include: • the abolishment of random partially clothed searches following domestic visits (a combination of advocacy from the TCVU and the resident voices through feedback and complaints) • a range of procedural changes that aim to increase residents time out of room

DHS Youth Justice is committed to strengthening opportunities to improve practice, particularly through the identification of systemic issues derived from the above processes. This is being incorporated into the remit of the systems improvement working group. The working group will be responsible for planning, implementing and providing oversight of projects to improve systems, policies and procedures in Youth Justice.

**11. How have residents participated in the development and management of their personal case plans in the period since 1 October 2018?**

DHS Youth Justice Case Managers work collaboratively with young people, their families or carers and relevant service providers to conduct assessments, determine case plan goals and identify referrals. The young person is provided the opportunity to contribute to the case plan goals and actions. There are specific areas of need which must be addressed in accordance with legislation around health, education, rehabilitation and release planning.

Best Practice is that a young person will attend and participate in their case planning meetings. If the young person is not comfortable or able to attend the meeting, a Case Manager or Case Coordinator will discuss the case and goals with the young person and represent their views in the meeting. It is preferable that the young person signs the completed case plan once they have gone through it with their Case Manager or Case Coordinator. This is an area for further development.

**12. How do DHS policies and processes and the operational management of the AYTC differentiate between residents who are on remand and those under sentence?**

In accordance with Youth Justice policy, case management is provided for clients as they move between community and custody and across different order types. Continuity across mandates and community/custodial settings is critical to effective case management.

Change in order type will trigger a review of any existing case plan providing the opportunity to adjust goals and strategies.

- ▶ Supervision of non-sentenced children and young people aims to promote:
- ▶ the young person's return to court
- ▶ compliance with condition(s) of the mandate
- ▶ community safety
- ▶ the young person's wellbeing and safety.

Supervision of sentenced children and young people aims to promote: • compliance with the condition(s) of the mandate • connected with legal services, support and advice • the young person's participation in interventions supporting their desistance from offending, where relevant • the young person's connection and participation with family and community; • community safety • the young person's wellbeing and safety.

Residents have case plans formulated within 28 days of their remand or within six weeks of a sentenced order. Whilst on remand the case plan is prepared from identified areas of need determined from the assessment process, which is compiled from a variety of departmental information, the young person and their family and/ or significant stakeholders.

Residents on remand (and pre-court police custody authorities) are:

- ▶ subject to more stringent observation requirements in accordance with Operational Order 29 – Resident Safety Risk Assessment and ACT Plan
- ▶ Screened on admission and every return from court to ensure immediate physical and mental health needs are met and that they are connected to services they require for ongoing care and support

Residents who are sentenced for long periods are considered for Section 34 release for vocational and educational needs and transitional requirements.

### **13. For youths who offend against the criminal law, how does DHS/AYTC secure the care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential?**

The Young Offenders Act 1993 recognises the vulnerability of young people involved in the criminal justice system and emphasises the care necessary for a young person's development and realisation of their potential when the state takes them into custody.

The YJAA aims for best practice standards in youth justice administration, to improve rehabilitation outcomes for young people and reduce reoffending. It encourages contemporary approaches to manage young people in custodial environments or subject to community-based supervision. The Act recognises the over-representation of Aboriginal and Torres Strait Islander young people in the justice system and aims to improve responses to their needs through specific provisions that ensure best practice approaches are taken during their supervision. The Act requires that assessment and case planning must consider the cultural identity and unique needs of Aboriginal young people and include representations made by the young person and their guardian, relative or carer.

The Aboriginal and Torres Strait Islander Youth Justice Principle builds on this by requiring that family and community are participants in case planning, assessment and decision making for Aboriginal young people. A range of strategies are in place to ensure services are culturally appropriate and support Aboriginal children and young people in the justice system to maintain connection to their family, culture and community. These include: • the multi-agency Youth Justice Aboriginal Advisory Committee (YJAAC), which provides cultural advice • cultural engagement mechanisms that consider cultural needs, for example, the Circles of Trust engagement tool • a Cultural Champions Network • specific cultural activities and programs, such as the Yarning Circle and Journey to Respect.

The Youth Justice Strategy under development has a strong focus on addressing the overrepresentation of Aboriginal young people in the justice system.

The AYTC has been designed recognising the rights of the child. A range of services are available for residents, including access to health and mental health professionals. There is also an emphasis on community reintegration within a safe and secure environment that reflects community norms, values and expectations. The on-site Youth Education Centre provides a modern educational environment and the Health Centre provides access to high quality health care.

The service delivery model ensures coordination and delivery of assessment and planning for treatment and intervention with residents. Relevant assessments inform immediate referral needs, unit placement and release information. Staff are trained in behaviour support techniques to de-escalate behaviour, aimed at reducing incidents and the use of physical restraints. DHS Youth Justice also works in partnership with agencies and the community to support engagement with services.

Upon admission to the AYTC, young people are taken through an induction process that explains their rights, complaints processes and ways to contact the Training Centre Visitor. This includes a booklet and video. Under the Act, a guardian, relative or carer is notified when a young person is admitted to the AYTC and participates in assessment, case planning and decision-making for the young person. There are various mechanisms for AYTC residents to raise concerns, including dedicated unrecorded telephone lines to the Ombudsman South Australia and Training Centre Visitor.

The Behaviour Support Framework (BSF) provides a progression model and suite of protective actions that encourage and support young people to develop positive behaviours and take responsibility in a safe and secure environment, with consideration of the resident's needs, safety and the safety of others. Multiple factors were considered in the development of the BSF, including working with young people with a history of trauma and / or disability related needs. Relevant operational orders clarify key protective actions within the BSF. A broad range of individualised referrals occur for every young person throughout their time at the AYTC. Particular care is taken to ensure these supports are embedded within the processes associated with the suite of Protective Actions, to ensure that young people receive the services and assistance they need.

# ATTACHMENT 6

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## Charter of Rights for Youths Detained in Detention Centres

### Under s.22 Youth Justice Administration Act 2016 (SA)

**This Charter of Rights tells you what you can expect while you are detained. The rights apply to everyone so you have to respect other people's rights.**

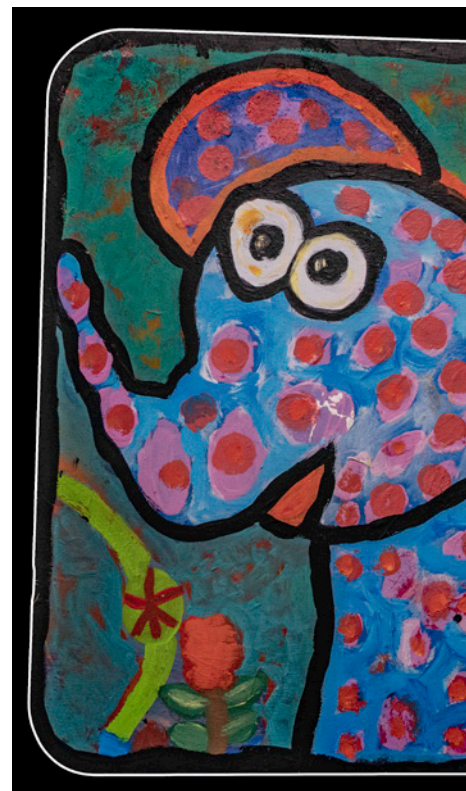
- ▶ You have the right:
- ▶ To be treated equally, and not treated unfairly because of your sex, sexuality, race, religion, disability or other status.
- ▶ To be treated with respect and dignity by staff and to be kept safe while you are in the youth justice centre.
- ▶ To be given a copy of and have explained to you the rules of the centre, and rights and responsibilities, in a language that you can understand.
- ▶ To see a doctor or nurse whenever you need to, have your health assessed soon after you arrive, and to receive proper healthcare.
- ▶ To receive help for your mental health if you need it, and to be transferred to a mental health facility for treatment if required.
- ▶ To get help if you have problems with drugs or alcohol.
- ▶ To have special care and protection if you are vulnerable or have special needs.
- ▶ To have regular contact with your family and friends through visits and phone calls.
- ▶ To get help to see a lawyer, and to talk to them privately.
- ▶ To have an interpreter for formal meetings or medical examinations if you are not fluent in English.
- ▶ To get information and news about what is happening in the world.
- ▶ To have a say in decisions about your rehabilitation and other issues that affect you.
- ▶ To participate in activities and programs that help your rehabilitation.
- ▶ To continue your education, or to do training to learn useful skills for work.
- ▶ To get exercise every day, and to go outside every day except in bad weather.
- ▶ To have enough good food (including food that is suitable for your culture or religion, or dietary requirements), and to have drinking water available whenever you need it.
- ▶ To have clean clothes, and to wear your own clothes if you go out of the centre.
- ▶ Not to be punished unfairly, and only in accordance with the rules of the centre or the law.
- ▶ Not to have force used against you, or restraints used on you, unless absolutely necessary, and never as a punishment.
- ▶ Not to be isolated from other young people unless necessary to keep you or others safe, and never as a punishment.
- ▶ To practice your religion or express your culture and, whenever possible, to participate in cultural celebrations and see religious or spiritual advisors.
- ▶ If you are Aboriginal or Torres Strait Islander, whenever possible, to participate in cultural activities and celebrations with other Aboriginal or Torres Strait Islander people.
- ▶ To make a complaint about your treatment to an independent person (like an official visitor) and to be told what happens with your complaint.
- ▶ Before you leave the centre, to get help with somewhere safe to live and ongoing support.

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*Training Centre Visitor: June 2020*

*Great Responsibility: Report on the 2019 Pilot Inspection of the  
Adelaide Youth Training Centre (Kurlana Tapa Youth Justice Centre)*



**Government of South Australia**  
Training Centre Visitor