

# Visiting Program and Review of Records: Adelaide Youth Training Centre, For Term 4, 2018

Training Centre Visitor

August 2019

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# 1. Introduction

## 1.1 Purpose and context

This report describes and reports on the Training Centre Visitor's (TCV) visiting program and associated review of records undertaken in Term 4<sup>1</sup> 2018. This occurred at the same time as the major report on the earlier 2018 Pilot Visiting Program was being prepared and therefore did not fully accommodate or reflect learning from that process<sup>2</sup>.

The goal was to maintain the new program's momentum while keeping faith with the residents that they could expect regular attendance and support by TCV advocates.

TCV activities relate to residents at both Jonal and Goldsborough campuses of the Adelaide Youth Training Centre (AYTC).

The support of residents, staff and AYTC management through this process is again acknowledged.

### ***Statutory mandate***

The TCV undertakes functions prescribed by s.14 of *the Youth Justice Administration Act 2016* (the Act) -

- 14(1) The functions of the Training Centre Visitor include 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;
  - (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.

The visiting program primarily addresses the s.14(1)(a) visiting function in light of s.16 of the Act, including that –

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<sup>1</sup> Note: the TCV Visiting Program matches formal activities to education term times.

<sup>2</sup> *Confidential report - Adelaide Youth Training Centre: Pilot Visiting Program and Review of Records 2018* (Training Centre Visitor, December 2018). This occurred in Term 3 2018 (ten weeks from 23 July to 28 September 2018 with an associated Review of Records conducted in October).

- 16(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.

The visiting program and associated reviews of records respond to the independent nature of the TCV role, in which she “must act independently, impartially and in the public interest” (s.12(1)) and -

- pay particular attention to the needs and circumstances of residents who are under guardianship, or are Aboriginal or Torres Strait Islander young people, and those who have a physical, psychological or intellectual disability (s.14(2)(b))
- encourage residents to express their own views and must give proper weight to those views (s.14(2)(a)), and
- have regard to the *Charter of Rights for Youths Detained in Training Centres* and try to implement its terms “to the fullest extent possible” (s.22).

## 1.2 Recommendations

In addition to ongoing oversight matters identified throughout this report, seven overarching recommendations were identified through the Term 4 visiting and review of records processes.

These recommendations relate to:

- a. Environmental factors including standards for bedrooms
- b. Resident right to privacy for toileting and showering
- c. Semi-naked search processes that ensure the rights and dignity of residents are upheld
- d. Effective internal complaint handling mechanisms
- e. Safe room practices and supports for young people
- f. Dignified access to sanitary products for young women

## 2. Term 4 Visiting

### 2.1 Context

Nine objectives were developed for and affirmed as appropriate through the 2018 TCV Pilot Visiting Program. These then guided Term 4 activities.

**Objective 1** - provide the opportunity for residents to be heard and raise concerns, specifically in relation to their “care, treatment and control” (which is the scope for advocacy set out in the Act) and work with them to identify how best to address and/or advocate on their behalf about these matters.

**Objective 2** - inspect all parts of the AYTC to assess the suitability and quality of the environment and facilities.

**Objective 3** - educate residents about their rights, entitlements and responsibilities while in detention.

**Objective 4** – through discussion and observation, provide insight into the quality of care provided to residents.

**Objective 5** - build relationships with residents and AYTC staff.

**Objective 6** - generate referrals for individual advocacy.

**Objective 7** - identify good practice and approaches.

**Objective 8** - identify systemic issues that require reform at a local level within the centre but also within the wider youth justice sector.

**Objective 9** - identify necessary data and information to support the visiting and related functions.

### 2.2 Visiting overview

Four visits were made to each AYTC campus, making a total of 8 scheduled attendances<sup>3</sup>. Three were conducted by a single Advocate alone due to restricted staff availability. The Principal Advocate participated in the final visit (which included the facility check which also forms part of the TCV’s visiting function).

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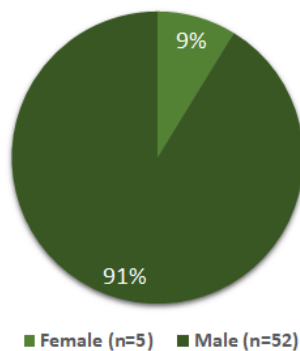
<sup>3</sup> Noting that the TCV and her staff attend the centre at other times for various reasons, including meetings with individual residents.

This experience confirms that visits by a single Advocate limit our capacity to meet the Program's baseline objective of sighting and speaking individually with every resident (including those in their bedrooms at the time of the visit). It also means that residents cannot be guaranteed access to a female Advocate.

On one occasion, an entire unit was not visited during the allocated time due to limited (single) Advocate resources. This meant that affected residents were not able to raise individual concerns or matters face to face with the Advocate which should be a minimum expectation of the visiting process. This is a matter of considerable concern.<sup>4</sup>

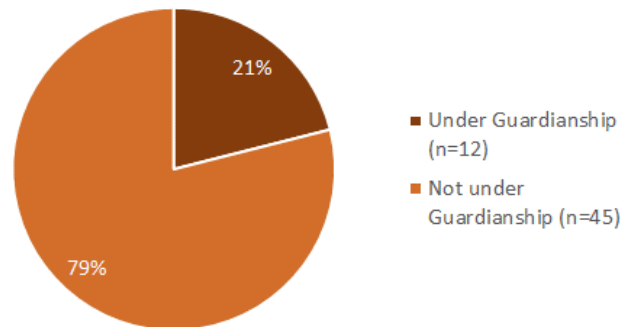
Term 4 visiting was mainly undertaken by Travis Thomas (Advocate) and Belinda Lorek (Principal Training Centre Advocate) with planning and reporting input from Penny Wright (TCV), and Alan Fairley (Principal Policy Officer and Principal Training Centre Advocate). The Review of Records was conducted by Travis Thomas, Belinda Lorek and Alan Fairley with the support of Jess Flynn, Senior Policy Officer from the Guardian's Office.

**Chart 1: Sex of residents – Adelaide Youth Training Centre  
TCV Term 4 2018, TCV Visiting Program (n= 57)**



**Chart 2: Guardianship status of residents – Adelaide Youth Training Centre  
TCV Term 4 2018, TCV Visiting Program (n= 57)**

<sup>4</sup> The AYTC noted that while this may be the case, residents maintain the right and opportunity to contact the TCVU in other ways if direct contact could not occur (e.g. direct and confidential access through the Starnet phone system, or via AYTC staff who are required to facilitate contact at the request of a resident).

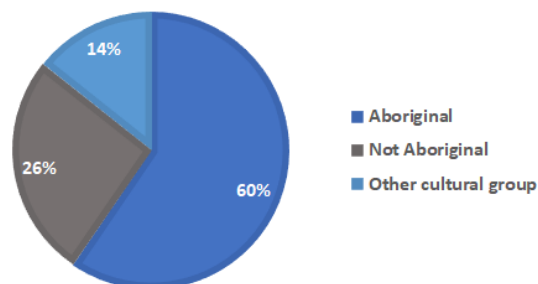


### 2.3 Goldsborough Road

**Forty-two** individual male residents were present at Goldsborough campus during the four Term 4 visits, of whom -

- twenty-five (59%) identified as Aboriginal or Torres Strait Islander
- eleven (26%) identified as not Aboriginal or Torres Strait Islander
- six (14%) identified as belonging to another cultural group
- seven (17%) were under Guardianship orders
- fifteen individuals (36%) were present for all four visits.

**Chart 3: Cultural identification of residents - Goldsborough Campus  
TCV Term 4 2018 Visiting Program (n= 42)**

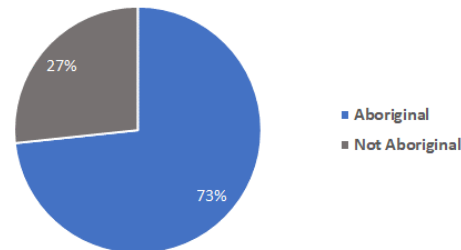


### 2.4 Jonal Drive

**Fifteen** individual residents were present at Jonal Drive Campus, of whom -

- eleven (73%) identified as Aboriginal or Torres Strait Islander
- four (27%) identified as not Aboriginal or Torres Strait Islander
- four (80%) of the five females visited were under Guardianship orders
- one (10 %) of ten young males was under a Guardianship order
- two (20%) of the young males were ten years of age.

**Chart 4: Cultural identification of residents - Jonal Campus  
TCV Term 4 2018 Visiting Program (n= 15)**



## 2.5 Formal Advocacy matters resulting from the visits

Three individual matters met the criteria to be opened as TCV advocacy matters (remand on placement; access to a hairdresser; and school attendance). Other resident requests were referred to relevant AYTC staff to address and were resolved without issue. Two additional matters were referred to the child protection Advocacy Team in the Guardian's Office as they related to a resident's community placement.

## 2.6 Summary of Issues and Matters of Interest

Issues and matters of interest raised and discussed during the Term 4 visits included -

1. Residents feeling unsettled due to staffing team changes. TCV staff raised this with AYTC management to enable proper monitoring.<sup>5</sup>
2. Young women expressed disappointment and frustration about case coordination team changes which meant that they had no access to a female or Aboriginal worker. This was raised with centre management. The Centre has an obligation to actively recruit and support the retention of Aboriginal and Torres Strait Islander staff (*Youth Justice Administration Regulations, 2016*).<sup>6</sup>
3. Residents in one unit advised that they were asked by one or two staff groups to 'vote' on whether they should attend the gym, with the result that access to an hour of daily exercise was denied to some residents on some occasions. This has been resolved by centre management with the vote process no longer being used.

<sup>5</sup> The AYTC responded to this by advising that steps are taken to reassure residents during such changes, that mechanisms such as the Youth Advisory Committee are available to raise concerns, and that "[u]nlike other jurisdictions that can include a proportion of casual workers, AYTC offers a full-time working environment that supports retention, consistency and effective practice".

<sup>6</sup> The TCVU has been advised that Youth Justice, DHS is committed to increasing the recruitment of Aboriginal and Torres Strait Islander people to achieve a diverse and inclusive workforce that reflects our community with the attraction, retention and development of Aboriginal employees a priority. The TCVU will monitor whether these commitments take effect and are evident in the lives of incarcerated children and young people.



Weather permitting, every resident has the right to daily exercise in the open air.

4. Several residents sought updates on their applications to attend funerals.<sup>7</sup> This was referred to appropriate AYTC staff for discussion with residents. As per the *Aboriginal and Torres Strait Islander Youth Justice Principle*, the TCVU will advocate to ensure Aboriginal young people are supported to uphold their cultural responsibilities and have access to, and participation in, cultural ceremonies, funerals and cultural practice relevant to their individual cultural identity (*Youth Justice Administration Regulations*, 2016; *Charter of Rights for Youths Detained in Detention Centres*).
5. Holding children and young people on remand in the AYTC due to lack of alternative placement options is still a systemic concern. The TCVU provided individual advocacy for three residents for whom this was an issue in Term 4 2018. This practice is also, on the face of it, a breach of core protections enshrined in the *International Covenant on Civil and Political Rights* and the *Convention on the Rights of the Child* (Articles 3.1 and 37(b)) among others<sup>8,9</sup>.

#### **A case study**

*A young person was admitted to the AYTC on the basis of allegations of causing property damage at his placement. He was not re-offered the placement due to these allegations. He was not under a Guardianship order but could not return home to his family. While an alternative placement was being arranged, this young man remained in detention and was assaulted by a peer and bullied. He continued to be subject to the consequences of deprivation of liberty including the structure and routines of AYTC such as the use of CCTV in bedroom and semi-naked searches (after admission, court returns, return from escorts and personal visits).*

<sup>7</sup> The AYTC notes that strengthening connections with Aboriginal communities underpins Youth Justice's approach to supporting Aboriginal young people and that services seek to be responsive to the cultural needs of residents, including supporting them to maintain connections with family, culture and community. However, considerations about leaves of absence from the AYTC must balance the resident needs with a responsibility to maintain community safety.

<sup>8</sup> For example, as expressed in the '*Beijing Rules*' (19.1), that [t]he placement of a juvenile in an institution shall always be a disposition of last resort and for the minimum necessary period".

<https://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf> .

See the similar statement in the '*Havana Rules*' (2)

[http://www.ipji.org/fileadmin/data/documents/UN\\_documents/UN\\_HavanaRulesProtectionJuvenilesDeprivedLiberty\\_1990\\_EN.pdf](http://www.ipji.org/fileadmin/data/documents/UN_documents/UN_HavanaRulesProtectionJuvenilesDeprivedLiberty_1990_EN.pdf)

(Note: is it clear that all AYTC residents are held in accordance with a valid commitment order of a judicial, administrative or other public authority" as required by Article 20 of these Rules?)

<sup>9</sup> The AYTC advises that it must follow requirements set by the court and works with agencies responsible for supporting young people to find accommodation in the community to avoid such situations (DCP to secure a placement if required or with homelessness providers).

6. Young people wanted to exercise their right to improved access to effective participation in case conferences. The TCVU will explore this matter further in 2019 and the AYTC has indicated support for this initiative.
7. Residents have a right to be involved in decision making about their rehabilitation and other issues that affect them (*Charter of Rights for Youths Detained in Detention Facilities*). Identified family, significant people and community members associated with Aboriginal detainees also should be able to participate in case planning, assessment, and decision making (*Aboriginal and Torres Strait Islander Youth Justice Principle*, and s.5 *Youth Justice Administration Regulations*, 2016).
8. Residents advised that their views are sought and considered in the AYTC Review Board process but said that they did not know any of the professionals who sat on that Board. They also indicated that they appreciated the role of the support person who assists them with that process.
9. Residents raised the quality and consistency of food and portion sizes (sometimes too large, sometimes too small).
10. Residents asked when the Training Centre Visitor herself would next be visiting. They also enquired if there was an Aboriginal Training Centre Visitor and after some discussion about roles, were keen to meet the newly appointed Commissioner for Aboriginal Children and Young People.

## 2.7 Facility Review - bedrooms

Residents nominated facility reviews as an important aspect of the visiting role. Bedrooms were the focus for this task in Term 4. All bedrooms were reviewed. Facilities are reviewed pursuant to s.16(a) of the Act.

Trauma informed practice includes consideration of the physical environment. Some design features and physical aspects are believed to exacerbate trauma in young people (*Burrell, 2013 and Miller and Najavits, 2012*)<sup>10</sup>. These include -

- harsh lighting that is left on at night
- limited or impaired natural light
- noise such as door shutting, gates or keys
- sterile and uncomfortable sleeping spaces, and
- general blandness and uniformity in colours and materials, resulting in a stark and institutional feel.

<sup>10</sup> 'Reframing the purpose, practice and place of juvenile detention in the Northern Territory', *Designing Out Crime Research Centre*, University of Technology, Sydney.

The TCV believes that no room should be called a bedroom unless it contains a set of essential features or amenities. Rooms that do not contain these basic features are simply cells. National *Quality of Care Standards and Design Guidelines for Juvenile Justice Facilities in Australia and New Zealand* were endorsed by all States and Territories in 1996. The *Design Guidelines*<sup>11</sup> aim to “maxim[ise] young people’s chances of rehabilitation and reintegration to society” and recommend that each bedroom should include a bed, desk, chair, clothes storage, shelving and a secure cupboard.<sup>12</sup>

Some AYTC bedrooms were seen to contain very few personal items and were bleak, with peeling paint and large areas of graffiti on walls, windows and mirrors.

Over time, some bedrooms have been damaged by a small number of young people. The AYTC therefore maintains that some rooms must be ‘hardened’<sup>13</sup> to minimise property damage, thereby removing light switches, carpets and desks. Refurbishment of damaged rooms is a significant cost that also must cover attrition from cumulative minor damage.

The TCV maintains that most residents do not engage in extensive property damage. Children and young people who have not damaged property should not be seriously disadvantaged due to the occasional damage caused by others.

### ***Jonal Campus***

All Jonal Unit A bedrooms are now fitted with cameras with identical camera angles across these rooms that show all showers and toilets. This footage is viewable on multiple screens in the main office area of the unit which may be frequented by multiple staff including visiting staff from agencies. There appears to be no consistent practice as to when and how these screens are turned on or off.<sup>14</sup>

The AYTC has recently advised that it is “developing a procedure to reduce or cease display of individual resident rooms on monitors where it is deemed appropriate, based on an individual risk assessment. Where an individual is presenting as a high or extreme risk to their own safety, monitoring via CCTV will occur”. It has committed to reviewing those

<sup>11</sup> See discussion at [https://www.alrc.gov.au/publications/20-detention/existing-national-standards-juvenile-detention-centres#\\_ftn45](https://www.alrc.gov.au/publications/20-detention/existing-national-standards-juvenile-detention-centres#_ftn45)

<sup>12</sup> The AYTC agrees that bedrooms in custody should, as far as is reasonably practical, resemble a typical bedroom in terms of furnishings. While some bedrooms at the aging Jonal campus are being refitted, the majority have appropriate furnishings. Also, while the AYTC agrees in principle with the TCVU recommended furnishings, however, a chair will be removed if it is not fixed in place and presents a risk to the occupant, the safety of others, security or order. The use of fixed-in-place chairs will be trialled at Jonal Drive.

<sup>13</sup> AYTC asserts that these rooms “are utilised dynamically based on a young person’s presenting risk level. In rare periods of high population numbers, these rooms may be utilised as a last resort. While this is established practice within the centre, ATYC are willing to document this approach in a procedure in the future”.

<sup>14</sup> The AYTC has advised that it is considering the implications of TCV concerns in relation to the extent of observation of bedrooms (“based on an individual risk assessment) and will review practice that allow non-operational staff to have line of sight to monitors in unit offices.

practices that allow non-operational staff to view unit office monitors. It also has advised that "CCTV will continue to be utilised for all residents overnight at Goldsborough campus when in their bed or not visible from the observation window, as it is currently not possible to monitor young people in their bed from the observation window".

The AYTC advises that managing and balancing safety/risk with privacy is challenging and that the extensive bedroom camera coverage helps ensure the safety of residents and manage risks. The TCV understands the need for balance but is concerned about the negative impact this has on residents' privacy and dignity, particularly for young women who may be menstruating. The TCVU has enquired about what (if any) standardised information is routinely provided to residents about their right to have the camera turned off for toileting. The TCV is awaiting information from the Centre.

Only 5 of 12 Jonal Unit B bedrooms rooms have shelving which means that residents' clothes are kept on the ground. No bedroom had a chair, with the result that any resident who is required to eat in their rooms must do so sitting on their bed. It is questionable whether a room with such sparse furniture and impersonal appearance constitutes a 'bedroom' as would be the norm for other children and young people. Due to the old design, all bedrooms have bars on the windows.

Jonal Campus currently houses all female residents and young males aged 10 to 14. The following table summarises aspects of a bedroom review undertaken in December 2018.

### ***Goldsborough Campus***

Goldsborough Campus houses young men aged between 14 and 18 within 5 accommodation units, 4 of which are operational.

Most bedrooms have a desk except in Frangipani Unit where there are no desks or chairs in bedrooms nor light switches. This Unit generally houses young people post-incidents to provide higher needs support or for respite from the broader resident population. It is not clear that this mixed environment effectively meets these different purposes.

### ***Recommendation One – bedrooms, amenity and privacy***

**That the following measures be implemented as soon as possible -**

- a) Bedrooms (other than a safe room that may be occupied for a specific purpose from time to time) should contain a minimum suite of furniture and other features and be amenable to creating a personal space for an occupant.**
- b) At a minimum, bedrooms should contain a bed, desk, chair, clothes storage, shelving and a lockable cupboard. Each room should also contain a visible television, natural light and useable light switches. The AYTC must be resourced to ensure that these minimal standards are met.**

- c) The practice of serving a resident their meals on their bed should cease. If no desk/table and chair is present in a bedroom, the resident should be able to eat in the common dining area at a suitable time.**
  
  - d) Every child or young person should be advised of their right to privacy and to have the bedroom camera turned off for toileting if they so wish. This information should be provided upon admission and available regularly throughout their residency. This may include written information placed in every bedroom**
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## 3. Term 4 Review of Records

### 3.1 Introduction

The Term 4 Review of Records examined documentation for the period from 29 September to 7 December 2018 relating to -

- issues or concerns regarding the care, treatment and control of residents
- processes and practices that may impact on their rights, care and treatment
- good practices to acknowledge and promote in TCV reporting, and
- whether and how practices address the rights and protections guaranteed to residents under the *Youth Justice Administration Act (2016)* and the *Charter of Rights for Children and Young People Detained in Youth Justice Facilities*.

The following information was requested for review at the AYTC on 17 December 2018 -

- all original resident feedback forms and subsequent AYTC responses (written and/or verbal)
- all complete incident reports (including from all staff present and resident comment sheets) for all incidents and codes and any AYTC aggregate data for the incidents
- any logs, aggregate data or incident reports that record total numbers of;
  - uses of force
  - uses of physical restraint
  - uses of spit protection
  - uses of handcuffs, and
  - uses of any other mechanical restraint
- all original search logs and registers for all rooms used for both personal or semi-naked searches (including those associated with admissions and visits)
- all safe room running sheets and the associated C3MS safe room record for each occasion a safe room was used
- original unit logs that specifically record isolations within each unit
- any records that detail medical locum attendance at the AYTC and/or off-site emergency visits after hours, and
- any report or document that describes the total number of regression and structured routines at each separate site, as well as phase three achievements for each separate site during the period.

Hard copies of the following documents were requested for review at a later date –

- details of any training undertaken by staff
- a list of applications for s.34 leave<sup>15</sup> and the outcomes of those applications

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<sup>15</sup> The Chief Executive may grant a resident leave of absence from the AYTC for various reasons under s.34 of the Act.

- AYTC Operational Orders scheduled for compliance review during the review period and the outcome of the compliance review
- details of each program run in the AYTC by Centre staff or external providers that includes –
  - the purpose of the program
  - the dates the programs were delivered at each site
  - the date any programs were cancelled and the rationale why
  - the number of residents who attended each session
- new initiatives or positive achievements during the period.

### 3.2 Issues identified in the Term 4 Review of Records

The previous (first) Review of Records was conducted in conjunction with the Term 3 Pilot Visiting Program and focused on 5 main issues: personal and semi-naked searches; the use of isolation; incidents; feedback forms and complaints; and the use of safe rooms. Other matters were also identified. These five matters featured again in the Term 4 review.

Centre management and the Department have a duty of care to keep residents safe but also must uphold the human rights of detained children and young people. They advise that relevant human rights treaties, including the Convention on the Rights of the Child, underpin Youth Justice policy and practice, while the *Charter of Rights for Youths Detained in Training Centres* enshrines important minimum resident rights. Staff are expected to have regard to the Charter in their day-to-day work and seek to implement it to the greatest extent possible. All new AYTC staff receive training about these responsibilities at induction and have access to regular, relevant refresher training.

Acceptance of mutual responsibility for promoting and implementing the Charter has been a consistent feature of collaboration between DHS/AYTC and the TCV and her office.

#### 3.2.1 Personal and semi-naked searches

The AYTC conducts three kinds of personal searches: pat down, wand scan and semi-naked searches. Operational Order Six states that 'in all circumstances the least intrusive search will be utilised in order to meet the required level of safety and security'.

Semi-naked searches are used to manage the risk of contraband being brought into the Centre and thereby help maintain a safe environment. These searches are a routine requirement when a resident is first admitted and after they return from an escort outside the Centre (such as attendance at an event, a medical visit or Court hearing). Semi-naked searches result in a young person being searched while they are naked from the waist down (while their clothes above the waist remain on) or naked from the waist up (while clothes below the waist remain on). The young person cannot be required to be fully naked any time during the search.

AYTC *Security Order 6* states that a resident will be semi-naked searched following visits when they have had a full contact visit with a domestic visitor and either -

- a) a positive ion scan of the resident has been returned
- b) or the ion scanner or an appropriately training staff member is not available.

A randomly selected resident from those attending a personal visit session will be semi-naked searched.

Semi-naked searches are also imposed if there is reasonable cause to suspect a resident has contraband. AYTC data relating to the discovery or otherwise of contraband was not reliable enough to be definitive, but discovery appears to be exceedingly low. The TCVU will actively monitor the detection of contraband and associated records management.

While the Term 3 report recommended several changes in relation to search logs, those reviewed in Term 4 did not accommodate the recommended changes. Centre management has since advised that –

- the changes are in train and will be available in records for the first review in 2019
- Duty Supervisors will now sign against all semi-naked searches as a standard oversight measure, and
- the AYTC will now record the detection of any contraband for record keeping and oversight purposes.

The Security Order determining the procedure for semi-naked searches noted that residents will be required to ‘squat and cough’ to dislodge any object stored and concealed internally. This degrading and potentially harmful practice is prohibited treatment in other jurisdictions<sup>16</sup> due to safety concerns but also for reasons of respect and dignity (in the ACT Bimberi Youth Justice Centre for example).

The TCVU reviewed the admissions and visit search logs for both Goldsbrough and Jonal Drive for the Term 4 review period.

#### ***Incidence of semi-naked searches recorded in Jonal Drive logs***

The Jonal Drive **Admissions Log** recorded 126 semi-naked searches during the review period. Specific reasons for searches were not recorded (for example: escort return, court return or new admission). Two residents were subject to 3 semi-naked searches each over a 2 day period. Three search entries were incomplete and on eight occasions, the entries were incorrect.

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<sup>16</sup> Victoria Corrections, *Commissioner’s Requirement -Strip Searches in Prisons*, issued November 2017 at [www.corrections.vic.gov.au](http://www.corrections.vic.gov.au) at page 13 – “Persons being searched must not be asked to squat or cough as part of the strip search process”.



A total of 16 ion scanner searches were indicated for the 16 searches recorded in the Jonal Drive **Visits Log**. No semi-naked searches were recorded to have occurred after a personal visit. No searches were recorded in association with visits for a period of 17 days, possibly due to the low residential population at that time.

***Incidence of semi-naked searches recorded in Goldsbrough Road logs***

Fifty seven searches was recorded in the Goldsbrough Road **Admissions Log**, all of which were semi-naked. The Goldsbrough personal **Visit Log** recorded 116 searches, 45 (39%) of which were semi-naked (and may have also included a pat down or ion scan). The remaining 70 searches were recorded as ion and/or pat down searches. One search method was not recorded.

No reason was recorded for a high proportion of residents being searched semi-naked following personal visits on at least four days in Term 4. The TCVU could not determine if this was due to ion scanner availability or suspected contraband.

Twenty five search log entries were incomplete. This included important matters such as incomplete 'items found' sections and lack of an authorising signature.

***Summary***

AYTC management has committed to ensuring that residents are made aware of their rights with respect to semi-naked searches prior to any semi-naked search and that they will never be completely naked but only semi-naked in order to preserve their dignity and privacy to the extent possible. The TCVU has since been that Security Order 6 is being reviewed as are broader aspects of "operationally appropriate" search methods.

Routine semi-naked searches have been discontinued in some other jurisdictions, replaced by less invasive methods. The TCVU will explore these options during 2019.

***Recommendation Two – Semi-naked searches***

**With respect to personal searches of residents, that -**

- a) semi-naked searches be kept to an absolute minimum and always implemented with due regard for the personal needs of the child or young person involved**
- b) Security Order 6 and staff training be amended to provide and give effect to a statement about minimum rights, including that residents are never to be fully naked during a search and their right to be ion-scanned following personal visits.**
- c) the reason for personal and semi-naked searches should be recorded in the search log on every occasion<sup>17</sup>.**
- d) a visual poster (suitable for non/low literacy) be developed and displayed in all search rooms to illustrate permitted semi-naked search processes to residents**
- e) the practice of 'squat and cough' be suspended immediately and removed from Security Order 6.**

<sup>17</sup> For example, after visits, if the search is a random search, the reason should be so specified. If the search is due to the ion scanner being unavailable, that should be so specified.

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### 3.2.2 Use of Isolation

The TCVU and AYTC management provide separate oversight of the use of isolation. Recommendation Three in the Pilot Visiting Report (Term 3, 2018) proposed that isolation logs designed to record all episodes of isolation be initiated and made available for the Review of Records. The AYTC has adopted this new procedure, with each instance of isolation now recorded in separate *Record of Staff Ordered Isolation* or *Record of Resident Requested Isolation* logs. Commencement dates for the logs varied between units, but all commenced some time during the Term 4 review period.

These logs contain the following details -

- the resident's name, date of birth and age
- isolation dates and commencement and completion times
- name of the staff member who ordered the isolation, the reason it was done and who made the log entry
- details of relevant action taken prior to the isolation
- details of any reviews undertaken.

The logs do not detail checks conducted on young people as these are recorded via a light switch system.

The AYTC has advised that staff may use short periods of isolation to help manage challenging behavior and prevent conflict from escalating. For example, if tension is building between three young men, each may be isolated in their bedroom for five minutes to defuse the situation. Staff report that this separation is often effective in preventing more serious incidents occurring. Discussion continues about this practice.

The Centre must manage challenging behavior with isolation management obligations outlined in the *Youth Justice Administration Regulations 2016*. While the AYTC advises that recourse to isolation is only used as a matter of last resort, the TCV is not confident that this is the case. The AYTC contends that the use of isolation is subject to strict processes in line with Regulation 6 of the *Youth Justice Administration Regulations 2016* and that "[w]here possible, other de-escalation techniques are prioritised for use to manage challenging behaviour avoiding the need to use isolation".

The TCVU reviewed the available isolation logs and recognise that as they have only recently been introduced as unit practice it may take time for staff to become accustomed to their use. The AYTC advises that access to an electronic record keeping system is being explored but is costly.

Some periods of isolation were not recorded in the isolation log -

- when a resident was locked in a court yard or games room

- periods of isolation between exercise breaks for residents on restricted, regression or structured routines, and
- isolation due to unit lockdowns.<sup>18</sup>

The AYTC answered the TCVU inquiry about these omissions that, as doors necessarily lock in the centre, residents may be locked in rooms for purposes other than isolation as prescribed by the Regulations. The TCVU is considering the implications of this advice.

The TCVU expressed concern that isolated residents do not have breaks in that isolation when moved from a bedroom to a locked courtyard for exercise. There clearly are different views about what, technically, constitutes 'isolation' in this context.<sup>19</sup>

### 3.2.3 Incident Reporting

The AYTC convenes a weekly internal *Incident Review Committee* (IRC) to review all incidents with a view to identifying areas for practice improvement, system review and positive practice. The IRC identifies incidents that should be referred to the DHS *Incident Management Unit* (IMU) which investigates both incidents and staff conduct.

It is not clear how this dual, potentially confused role is constructed and moderated to ensure that the best interests of an affected child or young person are met and independent oversight of care concerns ensured. The TCVU continues to be concerned, despite the recent AYTC/DHS explanation (the first time this has been documented).<sup>20</sup>

#### **Recommendation Three – complaints and grievances 1**

**That the Department for Human Services clarify the guidelines, procedures and policies through which the Incident Management Unit (IMU) assesses and triages incidents referred to them that involve children and young people detained in the AYTC.**

<sup>18</sup> The TCVU does not agree with the AYTC assertion that lockdown related restrictions do not constitute 'isolation'. This interpretation and application of the *Youth Justice Administration Regulations 2016* matter will be considered further.

<sup>19</sup> This also involves what the AYTC refers to as 'segregation' in the context of *Operational Order 69 – Use of Restricted Routine*. This order describes "the processes and recording practices surrounding the use of segregation in the AYTC. Of note, the Dynamic Risk Management Plan may authorise planned time in room for young people which constitutes Restricted Routine and the Restricted Routine Exercise" with Period Logs then recording when exercise is offered and taken.

<sup>20</sup> The following advice was received on 7 June 2019 - "To safeguard the integrity of the Department of Human Services (DHS) and the public sector, ensure accountability and maintain high standards of professionalism, DHS is obliged to act where reasonable suspicions or allegations of misconduct arise. Often this will require conducting an investigation and undertaking a disciplinary process. The Incident Management Unit (IMU) within DHS is responsible for managing this process for the department. The IMU responsibilities include conducting care concern investigations, misconduct matters, Critical Client Incidents and Independent Commissioner Against Corruption referrals. Although the IMU works closely with the Incident Review Committee within the AYTC to provide oversight of their processes around incidents, IMU is specifically kept separate from operational arms of DHS to maintain independence and impartiality. The management of IMU met with the TCVU on 28 February 2019 and provided a briefing on the relationship and processes between IMU and IRC."

Thirty one of the 46 Term 4 incident reports were examined (the other 15 were not reviewed due to lack of time). Eight reviewed incidents involved 2 residents, 1 involved 3 while only a single resident was involved in the remaining 22. Sixteen of the examined reports related to Jonal campus (females and young males) and 13 to Goldsbrough.

Incident themes were recorded as follows (an AYTC incident report allows more than one theme to be selected).

Behavioural	22	Illness	1
Threat	3	Injury	1
Assault	7	Property Damage	4
Abscond	1	Substance misuse	1

Of the 31 incidents reviewed, 22 (71%) involved the use of force and/or mechanical restraint including the following: half wrap; restraint to ground (including prone); hand cuffs; leg wraps; seated hold/restrain; non-Maybo<sup>21</sup> restraint; arm hold; escort; prone on bed; other (supine/wall); and, spit protection. On 18 occasions a resident was restrained to the ground (including the use of prone restraint).

Twenty-four incident reports recorded that a Resident Comment Sheet (RIC) was offered and/or completed. Some residents decline the offer or may be released before the form can be completed. This makes it imperative that the offer should be made and implemented as soon as is appropriate following an incident. Seven of the 31 incident reports (23%) had been signed by the Assistant General Manager. Reports are not signed for approval until the incident has been reviewed by the Incident Review Committee (IRC). AYTC advises that this may be delayed during periods of complex or multiple incidents due to the resources required to complete a thorough IRC process.

Multiple incident reports documented the use of prone restraint to ground. The use of face down prone restraint is not condoned in some other jurisdictions or, at the very least, is a restraint of absolute last resort, particularly in relation to children. The health sector has responded to concerns about the risks associated with face down prone restraint. We note that Office of the Chief Psychiatrist policy states that “at no time should a child be held in a prone position”.<sup>22</sup>

This matter will be explored further in the context of the fact that some 71% of all incidents are responded to with the use of force or mechanical restraint. The TCVU is not confident that practice accords with the recent AYTC assurance that “[t]he use of prone restraint within the AYTC is a last resort and this is reflected in staff training. It is one option among a

<sup>21</sup> Maybo refers to a model of physical intervention used in the AYTC.

<sup>22</sup> Office of the Chief Psychiatrist, Restraint and Seclusion in Mental Health Services Policy Guidelines (7 May 2015)

continuum of responses to young people presenting as a risk to safety (theirs or that of others), security or order of the centre.”

Recommendation 4(c) of the Term 3 pilot Visiting report proposed that the AYTC “reconsider current practices in relation to the use of spit protection as an anticipatory operational practice (noting that alternative protective wear is available)”. It was agreed that *Security Order 26 (Use of Mechanical Restraint)* would be amended at the next scheduled review of that order. This is still an active recommendation.

The TCVU is examining how care concerns are raised and responded to across government agencies, particularly in relation to residents injured during incidents.

### **3.2.4 Complaints and Feedback**

Recommendation Five from the Term 3 Report suggested improvements through distinguishing the general feedback process from a clearly defined complaints process and pathways while feedback to residents should occur as soon as possible. In addition to the current practice of documenting the AYTC’s response in a letter, further information about follow up actions should be case-noted with a copy attached to the feedback form to ensure that the record is complete (including thorough recording relevant interactions and discussions that staff have with the young people).

The AYTC has indicated that these recommendations are being considered while advising that current DHS standards are being met (acknowledging receipt of a complaint/comment within 5 days and finalisation within 30 days). This standard is generally not appropriate for a secure environment like the AYTC where 5 days may be too long due to factors such as the need for a timely response prior to release and the effect of the young age of this client group. It is the TCV’s view that, given the relatively low number of matters generated, more timely responses should be possible.

Thirty four forms were lodged by 16 individuals and 2 submitted on behalf of units (i.e. groups of residents) were reviewed compared to a total of 23 in Term 3.

#### ***Comments arising from the Term 4 review of the complaints/feedback process***

- Some residents use the feedback process routinely while others do not use it at all, despite having been resident in the AYTC for significant periods of time. One resident completed 6 feedback forms during the review period.<sup>23</sup>

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<sup>23</sup> AYTC points out that various mechanisms are available to help communicate about and resolve complaints less formally, for example a resident discussing an issue with staff directly (Behaviour Support Officers, the duty Supervisor or Manager, an Accommodation Manager, a case coordinator,

- The feedback/complaints system has no independent input/review mechanism. The AYTC counters this concern with the assertion that if residents are dissatisfied with the initial response to their feedback they can request an internal review and that “numerous external avenues” are available, noting that the information booklet provided on admission lists contact details for the Ombudsman and the Guardian for Children and Young People. Even if internal AYTC processes were adequate and written advice provided about some external supports, this does not exhaust the need to actively promote the right to express concerns and be heard through an accessible and coherent process.
- The AYTC has rectified the fact that Jonal Drive residents previously had to request access to a feedback/complaint form.
- Some residents indicated to visiting TCVU staff that they do not believe that the existing process helps to address their issues or concerns. This suggests that unless the process is revamped it is unlikely to be a system used much by residents. Resident confidence in the system needs to be (re)built.
- The Term 3 review noted that it would be beneficial to attach a case note to each feedback form to better capture the work and dialogue involved in addressing and resolving concerns. This would better reflect the efforts of AYTC to respond to various issues. This recommendation is still relevant.
- No complaint that has been referred to a higher level or alternative grievance process due to resident dissatisfaction with AYTC resolution of their matter has been notified (e.g. escalation to the AYTC General Manager or elsewhere in DHS or referral to an alternative process such as that offered by the Ombudsman). It is unlikely that escalation (or ‘appeal’) has been consistently offered as an option.
- It is not clear how the AYTC addresses and records actions taken in response to feedback/complaints matters that suggest systemic issues that extend beyond an individual complainant.<sup>24</sup>

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cultural advisor or through the Youth Advisory Committee). If immediate resolution is not possible or “the resident is not satisfied, they are assisted to submit a feedback form”.

<sup>24</sup> Two Term 4 examples are: a) concern expressed about unrealistic expectations associated with Phase 3 of the Behaviour Support Framework, and b) the lack of Aboriginal cultural support and programs for girls and young women at Jonal Drive (as well as the younger male residents).

**Recommendation Four – complaints and grievances 2**

**That the AYTC should continue to consider the Term 3 Pilot Visit and Review of Records report recommendations about the feedback and complaints process and -**

- a) review standard response times for AYTC resident feedback and complaints, and**
  - b) review resident feedback and complaints mechanisms to consider the inclusion of an independent person where appropriate within that process.**
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**3.2.5 Locum Visits and off-site treatment**

Different documents were provided for the Term 4 review than for Term 3, making comparison difficult. The Term 3 review considered Duty Supervisor Handover Reports (for Goldsborough Road only), the Reception Observation Log (Goldsborough Road only) and Provider Invoices (Jonal Drive only) allowing scrutiny of three types of information about medical visits –

- observed and recorded entry and egress times and names of non-scheduled visiting locum service doctors
- observed and recorded entry and egress times and names of scheduled visiting doctors, and
- medication delivery details, including the type of medications delivered.

The Term 4 review was provided with different sets of documents: tax invoices for locum services; Resident External Movement Orders; and some internal advice emails.

Material provided for Term 3 allowed the TCVU to track the duration of a medical incident from initial point of identification of a resident concern through to the time and duration of locum attendance. This was not possible in the Term 4 Review due to the absence of the Admissions Log.

The TCV acknowledges that in response to issues raised in the Term 3 Report, the AYTC developed a new Medical Locum Attendance Log to be held at reception. Use commenced in December 2018 and the log will be available for the April 2019 review of records. Further discussion will standardise the base material needed for review in this area.

**3.2.6 Safe Room Use**

A centralised register for recording use of safe rooms was recommended in the Term 3 report. The AYTC responded that recording occurs in different ways due to lack of integrated system functionality and noted that safe room use is also recorded in individual case files. Given that the functionality issue is unlikely to be addressed in the immediate future, the TCVU will continue to monitor this process by accessing several evidence sources.

Records provided for the Term 4 review were complete and included safe room running sheets and associated C3MS records. Safe rooms were used across both campuses 14 times during the review period, 10 of which were for a single resident. The TCVU raised concern about this case with AYTC management which confirmed that the resident had not been placed in a safe room since the last recording, despite several admissions. The TCVU is pleased to note that the one to one support provided to help settle that resident's behaviour was reported to be successful.

On another occasion a 13 year old was detained in a safe room for over an hour and a half. No health referral was recorded. The cultural advisor was notified. Following scrutiny of the relevant CCTV footage, the TCVU made a report to the Child Abuse Report Line about that incident and what appeared to be application of a non-approved method of restraint.

It is not clear whether, and if so how, the operational use of safe rooms is moderated in response to diagnosed disabilities, trauma histories or neurodevelopmental characteristics of individual children and young people.

#### ***Recommendation Five – use of safe rooms***

**In relation to safe room use -**

- a) That the use of safe rooms and other restrictive practices for young people with diagnosed disabilities, trauma histories and/or complex neurodevelopmental characteristics be reviewed**
  - b) That a cultural advisor and any relevant health agency working with (or recommended to assess) an individual resident should be notified about every use of a safe room and the preceding incident. This should be evidenced in safe room documentation and provided to the TCVU at each review of records.**
  - c) That *Operational Order 25 (Safe Rooms)* be amended to include a clause that describes the right of a child or young person to be provided with food and water while detained in a safe room. This process must be recorded.**
  - d) That C3MS be adapted to ensure correct approval times are triggered for the Duty Supervisor and Duty Manager as outlined in the Operational Order 35.**
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## 4. Monitoring ongoing matters

Nineteen 'issues arising' were identified for each campus during the Term 3 Pilot Visiting Program and Review of Records. The AYTC provided a written response to each. The TCVU reviewed these and will monitor the following matters. As well as assessing progress where change is needed, it is anticipated that this will provide the basis for good news stories about practice development within the centre.

**a) *Community Centre Space***

The TCVU welcomes the proposed development of the AYTC Community Centre space to provide a visiting room that is more therapeutic and aesthetically appealing for residents and visitors. Practices like displaying resident art helps create a welcoming environment and discussion point with families and friends.

**b) *Unit rules development***

The AYTC has acknowledged the need to rework unit rules for consistency and has suggested this is done in consultation with an Occupational Therapist to ensure they are easily understood and able to be embraced by young people. The TCVU will welcome updates on the progress of this positive initiative.

**c) *Behaviour Support Framework***

The TCVU is awaiting advice on the intended time frame for the DHS Youth Justice evaluation of the AYTC Behaviour Support Framework.

**d) *Access to cultural programs for Aboriginal children and young people at Jonal Drive***

There is still no cultural program provision for female residents and 10-14 year old young males. This matter will be pursued.

**e) *Sanitary items for young women***

Term 4 visiting revealed that young women are only provided with sanitary items upon request. They are then provided with small quantities that are not sufficient to meet their needs for each menstrual cycle, necessitating further frequent requests. The TCVU advocates that adequate sanitary items should be provided to young women upon admission and regularly along with other essential hygiene items. Making sanitary items freely available will preserve privacy and dignity. Resource limitations is not an acceptable rationale for not providing adequate quantities, especially given the small number of female residents and

noting relevant standards such as the *Beijing Rules*<sup>[1]</sup>.

#### **Recommendation Six – access to female sanitary items**

**That issues raised by female residents relating to their personal dignity and management of personal hygiene be addressed by providing all female residents with adequate sanitary items at the same time as provision of other essential toiletry items.**

#### **f) *Female shaving***

TCVU Advocates raised the concern of some young female residents aged 14 or under that they were not allowed to use shavers. The AYTC was responsive to this advocacy about an equal opportunity issue and all female residents now have access to a shaver on request.

#### **g) *Provision of programs and activities for girls and young women***

The absence of Aboriginal cultural programs and access to fewer general programs at Jonal Campus disproportionately disadvantages female residents. This is discriminatory and a major TCV concern. The TCVU welcomes advice that the new program, Tracking Culture, will be provided across both sites in 2019. The provision of programs will be monitored through the Review of Records.

#### **Recommendation Seven – cultural support and programs**

**That planning for and provision of cultural support programs and practices for residents be a priority for the AYTC and DHS.**

#### **h) *Minimum suite of furniture/features in each bedroom***

The TCVU will be kept apprised of planning for basic fit outs of individual bedrooms (e.g. to be advised about quotes and plans).

#### **i) *Access to sewing and horticulture courses for girls and young women***

This was referred to the Youth Education Centre (YEC) for exploration. The TCVU will monitor progress of this issue.

<sup>[1]</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") <https://www.ohchr.org/Documents/ProfessionalInterest/beijingrules.pdf> Article 26.4 requires that "Young female offenders placed in an institution deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured."

**j) Youth Education Centre (YEC) course scope.**

Consultation with residents about their pre-vocational course needs/interests has been referred to the YEC. The TCVU awaits advice about this process.

**k) Kitchen knives**

This has been identified by the AYTC as an unresolved ongoing industrial and safety issue. The result is that residents may not be able to access appropriate cooking knives for some dishes or build confidence and desired safety skills in the kitchen space. The TCVU has sought information on steps that will be taken to resolve this problem.<sup>25</sup>

**l) Police Custody Unit Operations**

Police custody has been moved to Goldsborough Road. The TCVU will monitor the impact on residents.

**m) Formalising privacy information given to residents**

The TCVU has not been updated on the practices and procedures used to advise residents of their rights to privacy while using the toilet facilities in bedrooms. This will continue to be monitored and reported until resolved.

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<sup>25</sup> The AYTC have responded as follows: Where it is assessed as appropriate, young people may access the vocational kitchen at the Goldsborough campus. In order to allow the same type of knives to be used at Jonal Drive, the same assessment criteria would need to be applied and this would significantly reduce the number of young residents cleared to access the kitchen. While the AYTC recognises that it is not the case for all young people, the AYTC has thus far determined that a lower risk workshop is more suitable to the predominantly younger population at Jonal Drive". The TCVU acknowledges that this is a risk management matter that needs careful treatment.