

# **Training Centre Visitor Annual Report**

**2020-2021**



September 2021

**Training Centre Visitor**

*Office of the Guardian for Children and Young People*

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The Hon. Michelle Lensink, MLC  
Minister for Human Services  
Level 12 South  
1 King William Street  
ADELAIDE SA 5000

Dear Minister

I am pleased to present to you the annual report of the Training Centre Visitor for the year ended 30 June 2021, as required under section 18(1) of the *Youth Justice Administration Act 2016*.

This report provides a summary of the activities and achievements for the 2020-21 financial year.

Yours sincerely

A handwritten signature in black ink, appearing to read "Penny Wright".

**Penny Wright**

**Training Centre Visitor**

30 September 2021

*A caution*

This report contains case examples and sensitive information that may be distressing to some readers.

If that is the case for you, we encourage you to seek support from family, friends and community or contact a service like Kids Help Line on 1800 551 800 or Lifeline on 13 11 14.

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## Notes

### Language in this report

Reflecting community preference, the term 'Aboriginal' is used in this report to refer to both Aboriginal and Torres Strait Islander people.

Children and young people incarcerated at KTYJC are referred to interchangeably as residents or detainees.

### Referencing

Unless identified otherwise, all statutory references are to the *Youth Justice Administration Act 2016*.

### Artwork

All Images used in this report were created or influenced by children and young people detained at the KTYJC when participating in TCVU activities.

### Glossary

Aboriginal and Torres Strait Islander Youth Justice Principle	This Principle is established in the Act and described in Part 2 of the <i>Youth Justice Administration Regulations 2016</i> . (provided as Attachment 2 to this report)
Act	Unless stated otherwise, this refers to the <i>Youth Justice Administration Act 2016</i> (SA).
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 3 to this report)
DASSA	Drug and Alcohol Services (SA)
Detainee	This report also uses the term detainee for the children and young people described in the Act as "residents".
Dual involved / Dual status	Describes the status of detainees who are subject to orders within both the child protection and youth detention systems.
DCP	Department for Child Protection
DHS	Department of Human Services
Guardian	Penny Wright holds the separate statutory appointment of Guardian for Children and Young People. The TCVU operates from the Office of the Guardian.
KTYJC	Kurlana Tapa Youth Justice Centre – known as the Adelaide Youth Training Centre (AYTC) prior to mid-2020.

MY Health	Metropolitan Youth Health
NPM	National Preventive Mechanism (under OPCAT, see below)
OGCYP	Office of the Guardian for Children and Young People (the administrative location of the TCVU)
OPCAT	Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Review(s) of Records	Quarterly reviews of DHS/KTYJC documents undertaken by the TCVU as part of the TCV's monitoring processes.
SADI Project	The South Australian Dual Involved (SADI) Project commenced in early 2021 to focus on this 'crossover' group.
TCVU	The Training Centre Visitor Unit supports Penny Wright to undertake her responsibilities as TCV under the Act.
Units	KTYJC has five 'home' accommodation units - Blue Gum, Wallaby Grass, Saltbush, Frangipani and Kangaroo Paw.
Visiting Program	The TCVU conducts a rolling KTYJC visiting program to establish and maintain contact with detainees.
WCH	Women and Children's Hospital
Youth Justice State Plan	<i>Young People Connected, Communities Protected</i> is the SA Government's Youth Justice State Plan, 2020-2023.
Youth Treatment Orders	YTOs are a new mandatory drug treatment order applied to relevant KTYJC detainees (to commence November 2021).

### *Acknowledgements*

Many people contributed to the process of compiling this Annual Report. TCVU and OGCYP staff made major contributions and we also received assistance from several DHS and KTYJC officers. We also thank our 2020-2021 Law Interns, Mikeyli Hendry and Esther Richards.

You will read the views of some of the detained children and young people themselves, especially in Parts 3.3, 4.2 and 4.7.

# From the Training Centre Visitor

As Training Centre Visitor, it is my role and privilege to oversee the rights and conditions of those who are detained in South Australia's 'training centres'. Kurlana Tapa Youth Justice Centre is currently the only training centre in South Australia, where children and young people between the ages of 10 and 18 may be locked up if they have been convicted or charged with an offence against the law. I am very pleased to be able to report, for the first time since 2017, that there were no ten year olds detained in the centre this year.

'Kurlana Tapa' is a Kurna word for 'New Path'. At its best, this is what the detainees could, and should, experience. Many of them are affected by disability, trauma, mental ill-health and/or substance dependence, having had (or still having) childhoods marked by disadvantage and hardship. The aim of detention is to manage them safely, humanely and securely while promoting their rehabilitation and reintegration back into the community. It is my role to ensure that the 'care, treatment and control' they receive while they are in Kurlana Tapa is all that it should be.

My staff and I visit the centre regularly, to check that the children and young people are safe, that their rights are respected and to support them to speak up and have their say about the conditions they live in. Over the last four years we have witnessed many positive changes as our program of work has developed and the staff and management of the centre have adjusted to the TCV's oversight role. Damaging semi-naked searches, that were previously the common experience of all young people entering the centre, have basically ceased. The use of 'safe rooms' and restricted routines to manage disability-related behaviours is reducing. Issues raised by young people that affect their day to day lives, like being offered a choice of t-shirts (not just grey) or being provided with suitable brushes and combs for their particular hair type (thick and curly) or the girls having access to properly fitting bras – concerns that go to their sense of dignity and humanity - are now resolved more quickly and efficiently.

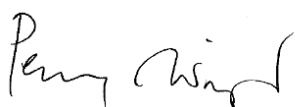
In recent times centre management has grappled with some complex issues affecting individual detainees, particularly around gender identity, and has responded with real sensitivity and respect. There is also some significant work underway, by DHS YJ, to identify, assess and support young people in the centre who have a disability or behaviours that stem from complex trauma. There is more information about positive initiatives like these in the body of this report.

The year has also had its share of challenges. As elsewhere, Covid-19 has required the management of the centre to strike a balance between keeping the environment safe, health-wise, and allowing our regular visits to continue, to support the young people and ensure appropriate oversight. Due to health advice, the gym equipment and other areas have been out of bounds for extended periods of time, causing great frustration for the young people. They have also experienced reduced access to education due to restrictions on staff and young people's movements around the centre, designed to reduce cross-contamination.

In terms of management of the centre, there have been ongoing concerns about the availability of operational staff to fill shifts, resulting in missed off-site appointments, reduced options for off-site leave for detainees and interference with school attendance due to delays in starting lessons or cancelled classes.

One of the most serious concerns for me this year is that KTYJC is not an appropriate or acceptable place for detainees struggling with severe mental ill-health. However, as there is currently no specialised forensic mental health facility in South Australia for children under 18, there is no alternative. Despite the best efforts of KTYJC staff, some young people experienced what can only be described as wretched conditions, due to a lack of therapeutic spaces or treatment options in the centre. In addition, unqualified operational staff were required to administer 'as needed' medication and manage highly distressing, illness-related behaviours, without adequate medical supervision. Just as with adults whose offending behaviour is related to mental illness or mental impairment, children or young people are entitled to a therapeutic setting that can offer them appropriate care and treatment for, what is, a medical condition. This issue, which is discussed in more detail in this report, has been brought to the attention of the department and relevant Ministers but is yet to be resolved and will undoubtedly recur.

To conclude, I am grateful for the many people who work with, and for, the Kurlana Tapa population, and who assist my team and me in our roles. I thank my own very dedicated TCVU staff for the caring, committed work they do every day. And, last but not least, I offer my appreciation of the children and young people in KTYJC who privilege my team and I with their voices and views, trust us to support them and who ultimately make this work so worthwhile.



**Training Centre Visitor**

# 1. 2020-21 Continuity and new achievements

Kurlana Tapa Youth Justice Centre (KTYJC) was consolidated on the single Goldsborough Road campus as an ongoing arrangement in 2020-21. The co-location of younger and older detainees, and the different sexes, first gave rise to challenges in 2019. These issues now require permanent resolution and will be assisted in the longer term by the government's decision to invest in a major campus upgrade. Planning is underway for the construction of a further 12 bed unit, an extension of the police custody facility, an extension of the Visitor Centre and an extension of the Youth Education facilities.

## *An established, integrated program*

The KTYJC Pilot Inspection analysis and report (June 2020) concluded the establishment phase of the Training Centre Visitor Program. We affirmed and have continued our integrated activity model, to fulfil the TCV's three main operational functions: visiting, advocacy and inspection.

## *Addressing detainee concerns*

Children and young people raised diverse concerns with us during our visits or through confidential (unmonitored) phone calls to our office. Important matters they raised with us in 2020-21 are described in Part 3.2 below.

Some issues affected detainees generally: access to health care; the impact of campus wide lockdowns; staff shortages; complaint/grievance processes; meals; and bullying. Others had a particular impact on groups within the overall population: related to ethnicity or culture; girls and young women; arrangements for young people with disabilities; gender identification; and mental health needs.

## *COVID 19*

Training Centre Visitor Unit (TCVU) work continued to be affected by COVID 19 requirements. Fortunately, we were able to maintain regular visiting, in a modified form, ensuring that detainees had ongoing access to our support. We acknowledge and appreciate the commitment of DHS Youth Justice and KTYJC management to this arrangement and the support for our continued face to face contact with the young people.

## Activities and achievements

Our work is guided by the voices and views of detainees and, in the course of the year, we again interviewed detainees to seek their views about what they wanted from the TCV Program.

In 2020-21 we established and promoted strategic work in areas highlighted elsewhere in this report:

- mental health services, cultural support, and nutrition (see Part 4).
- the SADI Project (South Australian Dual Involved Project) (see Part 4.2). This short-term, ground-breaking initiative became possible as a result of DHS support to operate on the basis of 3 full-time TCVU staff positions. We engaged intensively with, and analysed the needs of, 'dual involved' children and young people: those subject to both child protection and youth justice detention orders.

We monitored the implementation of the 10 TCV Pilot Inspection Report recommendations accepted by the government in 2020. (see Part 3.4 below). We sought to make this process congruent with DHS roll out of relevant Youth Justice State Plan<sup>1</sup> projects.

We continued to pay attention to practices that undermine the dignity or self-respect of detainees, and to uphold the importance of access to entitlements and rights, focussing on the Youth Justice Charter.

We finalised a new logo and TCV program branding, based on the active participation of children and young people in design workshops. A large canvas based on young people's work and ideas was developed with the support of indigenous artist Shane Cook and now hangs in the KTYJC community centre.



*'Rights to Connection, 2020'*

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<sup>1</sup> *Young People Connected, Communities Protected 2020-2023* (SA Government, June 2020).

We prepared for the TCV's anticipated appointment as a child and youth focussed 'National Preventive Mechanism' under the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) which will commence in January 2022 (see Part 5.2).

We submitted a critique of the government's proposed Youth Treatment Order (YTO) model of care, especially noting inherent tensions between the KTYJC custodial model and the rehabilitative and treatment focus of a substance misuse program (see Part 5.2).

We responded constructively to changes introduced by DHS Youth Justice. This included adapting our Review of Records process to new, improved KTYJC recording and reporting systems, and responding to the changed conditions arising from the consolidation of operations on the single Goldsborough campus.

The TCV, Penny Wright, continued to publicly call for an increase in the minimum age of criminal responsibility (MACR) in concert with Children's Commissioners and Guardians from other jurisdictions.

### *Good work and positive change in KTYJC*

While it is the TCV's duty to monitor and draw attention to systemic or specific issues that need resolution or reform, it is important to recognise the committed and selfless efforts of many people who work within those systems. This certainly applies to most staff, employed by DHS and other agencies, who work directly with, or to support, children and young people in detention.

We acknowledge that considerable work is underway within DHS to improve service accountability and delivery, including with respect to matters raised in recent years in TCV reports. In 2020-21 we noted the following –

- an ongoing focus on recruiting staff from diverse backgrounds, including through new outreach efforts with the Aboriginal community
- several systemic improvements to documenting and reporting on operational activities, including the introduction of the Digital Operations Reporting and Information System ('DORIS')
- progress with improving the case management model and associated practices
- progress in improving the identification, assessment and support of detainees with complex and challenging behaviours, particularly those related to disabilities. This includes the work of the multi-disciplinary Assessment and Intervention Services (YJAIS), the Sensory Modulation Framework project, and the introduction of a 12 month pilot Enhanced Support Team process (a dedicated, Allied Health clinical team)

- reduction in the use of safe rooms in the centre. Between 1 January and 30 June 2020 35 uses were recorded; between 1 July and 31 December 2020 there were six, and seven in the first six months of 2021
- reduction in the use of Restricted Routine – Dynamic Risk Management Plans, and more timely transitions away from them
- a respectful and sensitive approach by KTYJC management and staff to complex issues affecting individual detainees, such as gender identification
- participation in discussions (also involving other parties) about strategic matters such as support for children and young people with mental health issues, or food and nutrition
- easing into single campus operations while planning for its physical upgrade, including consultation with the TCVU about the design and commencement of capital works and the opportunity for hands-on detainee activities
- continued support and facilitation of TCVU visits, largely uninterrupted, while managing the risks associated with Covid-19, and
- responsiveness to monitoring by the TCV and requests for information in relation to some acutely distressed young people, and some exceptional practice and patience shown by operational staff when managing detainees with increasingly complex and challenging behaviours.

The effective cessation of strip-searching of children and young people at the KTYJC due to the introduction of appropriate technology (nil recorded since August 2020) was a particular highlight. The focus of this concern must now shift to the prevalence of this practice for children and young people held in police lock ups.

It is very pleasing that this is the first TCV Annual Report in which it can be noted that no 10-year-olds were detained in the KTYJC.

## 2. About the Training Centre Visitor Program

### 2.1 Who we are – the TCV and TCV Unit

The Training Centre Visitor (TCV) position was established by the *Youth Justice Administration Act 2016* to promote the rights and best interests of children and young people who are sentenced or remanded to detention in a youth 'training centre'. The TCV reports to parliament through the Minister for Human Services.

Penny Wright was appointed TCV for a period of five years from 28 July 2017.

Section 12 of the Act expresses the essential independence of the role:

#### **12—Independence**

(1) In exercising his or her functions and powers under this Act, the Training Centre Visitor must act independently, impartially and in the public interest.

(2) The Minister cannot control how the Visitor is to exercise the Visitor's statutory functions and powers and cannot give any direction with respect to the content of any report prepared by the Visitor.

The TCV provides advice to the Minister for Human Services who must provide the Visitor "with the staff and other resources that the Visitor reasonably needs for exercising the Visitor's functions".

The TCV is supported by the TCV Unit (TCVU) comprised of a Principal Training Centre Advocate, a Principal Policy Officer, and an Advocate. For some of this year, our work was bolstered by the Senior Advocate implementing the SADI Project. The Unit is located within the Office for the Guardian for Children and Young People (Guardian), a position also held by Penny Wright pursuant to the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*.

#### *The facility*

The KTYJC is South Australia's only youth detention centre. It accommodates children and young people aged between 10 and 18 years. In 2020-21 the Goldsborough campus was confirmed as the sole site of KTYJC operations, with detainees living in five twelve-bed units: Blue Gum, Wallaby Grass, Saltbush, Frangipani (regression and respite) and Kangaroo Paw. Planning for a campus upgrade commenced this year.

## 2.2 What we do – Functions and Rights

### Functions

The duties (functions) of the TCV are listed in section 14 of the Act:

- to visit and inspect KTYJC
- to promote the best interests of detainees and act as their advocate, particularly when it comes to their care, treatment and control
- to advise the Minister about systemic reform needed to improve the care, treatment and control of detainees or the management of the training centre
- to inquire into and investigate matters referred to her by the Minister (for Human Services).

Importantly, in carrying out her duties, the TCV must encourage detainees to express their own views and give proper weight to those views. And she must pay particular attention to the needs and circumstances of children and young people who are under guardianship of the Chief Executive of DCP (ie 'in care') or are Aboriginal or who have a physical, psychological or intellectual disability.

The TCV is guided by the objects and principles of the *Youth Justice Administration Act*, which have the aim of promoting rehabilitation while providing for the safe, humane and secure management of detainees and ensuring their access to appropriate programs while in detention. Associated aims include having regard to the rights of victims of crime and the need to promote community safety, having regard to cultural identity and linguistic background, recognising the importance of family and community participation in the administration of youth justice, and supporting a detainee's reintegration within the community. The Act also requires recognition and observation of international and national requirements or guidelines<sup>2</sup> relating to the detention of children and young people, where possible.

### Rights

The Act requires the TCV (and others) to have regard to the *Charter of Rights for Youths Detained in Training Centres* and implement its terms "to the fullest extent possible". (see *Attachment 3*). KTYJC detainees who also are under the

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<sup>2</sup> For example, the *Standards for Juvenile Custodial Facilities* developed by the Australasian Youth Justice Administrators Group (1999, but a new iteration is expected shortly). Two other important groups for the TCV in this context are the Australian and New Zealand Children's Commissioners and Guardians Group (ANZCCG) and the National Custodial Inspectors Network.

guardianship of the Chief Executive of DCP (ie 'in care') also have rights under the *Charter of Rights for Children and Young People in Care*.

The *Children and Young People (Safety) Act 2017* (Safety Act) obliges the TCV to safeguard and promote the welfare of children and young people (s.5) and prioritise early intervention in matters where they may be at risk (s.9). These provisions reinforce our understanding that the 'best interests' of detained children and young people are broadly based, not just referable to their status as "residents of a training centre".

The Safety Act further stipulates that "to the extent practicable" "international and national requirements<sup>3</sup> or guidelines relating to the detention of youths" are to be followed, bringing into play those with direct application to youth justice detention, including -

- the *Beijing Rules* relating to youth justice administration
- the *Havana Rules* for the protection of incarcerated young people, and
- the *Bangkok Rules* for the treatment of women prisoners, including girls
- the *Nelson Mandela Rules* for the treatment of prisoners
- the *Riyadh Guidelines* for the prevention of juvenile delinquency.

### *Law Interns*

During the 2020-21 reporting year, the TCVU continued to host Adelaide Law School interns for a 22-day Law and Justice Internship.

In relation to these young people, Penny Wright noted that *"While this program helps build awareness about the lives of children and young people in detention, our interns do real work. They make a dynamic difference in a small office. I really hope the experience stays with them."*

This is an important opportunity for the TCVU to contribute to the education and professional development of final-year law students, and in return students make meaningful contributions to the work of the office through their specific projects as well as other activities.

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<sup>3</sup> These include the *United Nations Convention on the Rights of the Child*, the *Declaration on the Rights of Indigenous Peoples* (UNDRIP), the *Convention on the Rights of Persons with Disabilities* (CRPD or Disability Convention) the *Universal Declaration of Human Rights* (UDHR) and the *Convention on the Elimination of Discrimination against Women* (CEDAW).

**Mikeyli Hendry** joined us in Semester 2, 2020. An Arrernte woman from Alice Springs, Mikeyli has a passion for social justice, human rights and Indigenous issues. She researched the most effective legal mechanisms for supporting the rights of children and young people in care and/or detention.



In Semester 1 2021, **Esther Richards** completed a literature review examining factors that contribute to the over-representation in detention at Kurlana Tapa Youth Justice Centre of girls and young women from residential care placements.

Esther also wrote a paper examining the prevalence of disability amongst dual involved children and young people in detention. She has a background in youth work and is passionate about advocating for, and alongside, young people, particularly those with a disability.



## 2.3 Who we work for – Children and Young People in Detention

DHS provided the summary data used here to characterise the 2020-21 detainee population (See *Attachment 4* for illustrative charts).

### Overview

Compared to the previous reporting year, the figures for 2020-21 show that -

- the total number of individual children and young people admitted to the KTYJC decreased significantly (by 72 individuals)
- 256 individuals were admitted and there were 597 separate admissions
- the number of individual Aboriginal children and young people decreased significantly (by 48 individuals)
- the number of individual girls decreased significantly (by 19) but account for 20.6 per cent of the average daily population, an increased proportion since the previous year
- the number of dual involved children and young people (ie those who were in care in the child protection system) decreased by 15, but they still account for 34.3 per cent of the average daily population, and
- the number of individuals aged 10 to 13 years (inclusive) at the time of admission increased (by 8) and made up 16.7 per cent of all individuals.

No data was provided about detainees who do not identify within the standard male/female gender binary.

No data was provided about detainees with disabilities, although DHS Youth Justice recently released a report indicating that nine out of every 10 children and young people assessed had a disability or disability related need<sup>4</sup>, highlighting the overrepresentation of this cohort within the detainee population.

These figures need to be examined carefully, including in relation to children and young people with multiple admissions and with respect to average daily populations, both of which help us understand the situation of over-represented groups. We must also analyse whether and how different cohorts of children and

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<sup>4</sup> Department for Human Services 2020, *Disability Screening Assessment Project Report: Identification of Population Needs at the Adelaide Youth Training Centre (Kurlana Tapa)*. Adelaide, Australia: Youth Justice Assessment and Intervention Services.

young people are likely to be subject to detention as opposed to community-based orders.

### *Individual children and young people admitted to KTYJC, 2020-21*

<b>Number of individuals admitted</b>	<b>Total</b>	<b>% of total</b>
Total individuals	256	100%
Number of individuals who identified as Aboriginal	111	43.3%
Number of females	56	21.8%
Number of individuals under a guardianship order at the time of their admission	78	30.4%
Number of individuals aged 10 to 13 (inclusive)	43	16.7%

### *Aboriginal children and young people*

The Act identifies principles with which “a person or body exercising a function or power under this Act in relation to an Aboriginal or Torres Strait Islander youth” must comply. They must -

- “observe the Aboriginal and Torres Strait Islander Youth Justice Principle”
- “have regard to the particular needs and circumstances of Aboriginal or Torres Strait Islander youths who are residents of training centres or are under supervision in the community” and
- “recognise the diversity of cultures within Aboriginal and Torres Strait Islander communities”.

The TCV published an overview of the situation of Aboriginal children in care and/or detention in May 2021<sup>5</sup>. In 2020-21 they comprised 43.3 per cent of individual detainees, accounted for 43.7 per cent of admissions (compared to 48.7 per cent in 2019-20) and made up 55.3 per cent of all residents on an average day (compared to 52.1 per cent in 2019-20). Overall, then, fewer Aboriginal children and young people were detained but, because the decrease in the number of non-

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<sup>5</sup> *Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention from the Report on Government Services 2021*, (TCV & GCYP, May 2021)

[ROGS-Report-Aboriginal-CYP-in-Care-and-YJ-Detention-2021.pdf](https://www.gdpsa.gov.au/gdpsa/ROGS-Report-Aboriginal-CYP-in-Care-and-YJ-Detention-2021.pdf) ([gdpsa.gov.au](https://www.gdpsa.gov.au))

Aboriginal young people being detained was even greater, their proportion as a per centage of the average daily population increased.

It is not clear what underpins these slightly improved (although still seriously over-represented) figures at the detention stage of the youth justice system. They may relate to the impact of intervention programs, changes in police practices, offending patterns, court practices, or perhaps all of these. We do know that 23.3 per cent of Aboriginal children and young people in South Australia receive diversions for alleged offending compared to 55.6 per cent of non-Aboriginal children and young people.<sup>6</sup> Aboriginal children and young people therefore continue to be at higher risk of entering detention.

### *Girls and young women*

Females made up 21.8 per cent of individual detainees in 2020-21 and comprised 22.2 per cent of admissions and 20.6 per cent of all residents on an average day.

Most of the girls and young women we meet through the TCVU Visiting Program are Aboriginal, in the care of the DCP Chief Executive and were living in residential (non-family based) care homes at the time of their offending. They usually returned to residential care after release, becoming subject again to the problematic nature of some of these placements.

The girls and young women continue to raise specific issues that relate to their dignity and sense of themselves as developing young women. These matters are as diverse as the quality or appropriateness of hairbrushes and haircare products, access to sanitary items and the quality of underwear.

### *Children and young people also in care – the dual involved*

In November 2019 the TCV report, *A Perfect Storm*,<sup>7</sup> was tabled in parliament, highlighting the parlous situation of 'dual involved' children and young people who are enmeshed in both the child protection and youth justice systems. This Annual Report provides a separate introduction to our current work with this group through the SADI Project in Part 4.2 below.

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<sup>6</sup> Report on Government Services 2021, Part C, Section 6A, Police services, Table 6A.20 Youth diversions as a proportion of offenders, by Indigenous status.

<sup>7</sup> A PERFECT STORM? Dual status children and young people in South Australia's child protection and youth justice systems - Report 1  
<http://www.gcyp.sa.gov.au/wp-content/uploads/2019/12/Dual-Status-CYP-in-SA-A-Perfect-Storm.pdf>

In 2020-21, 30.4 per cent of all individuals admitted to the KTYJC were also in care at the time of their admission. They comprised 39.6 per cent of all admissions, however, and made up 34.3 per cent of all residents on an average day (compared to 33.1 per cent in 2019-20). The distinctly higher proportion of total admissions (39.6 per cent) compared to individuals admitted (30.4 per cent), demonstrates a higher rate of multiple admissions of children and young people who are in care: an average of 3.0 admissions per individual in care compared to an average 2.0 admissions per individual for those not in care. Those in care end up back in detention more often than those who are not.

We believe this indicates ongoing systemic failure within the child protection system.

### *Very young detainees (10-13 inclusive)*

Very young detainees, those aged from 10-13 years (inclusive), made up 16.7 per cent (43) of the individual children and young people admitted to the KTYJC in 2020-21 and 6.1 per cent of all residents on an average day. This cohort made up 16.5 per cent of all admissions, with the average number of admissions per individual in this age range being 2.3. This rate is much lower than last year's average rate of 3.8 admissions each.

Bail practices have a significant impact on this cohort. Very young offenders often struggle to comprehend the nature and implications of their alleged offending and find bail processes and conditions confusing, almost inevitably leading to breaches. In addition, being detained contributes to the distress and disruption in their lives, with flow-on effects for their education and capacity to form or maintain trusting relationships in their homes and communities.

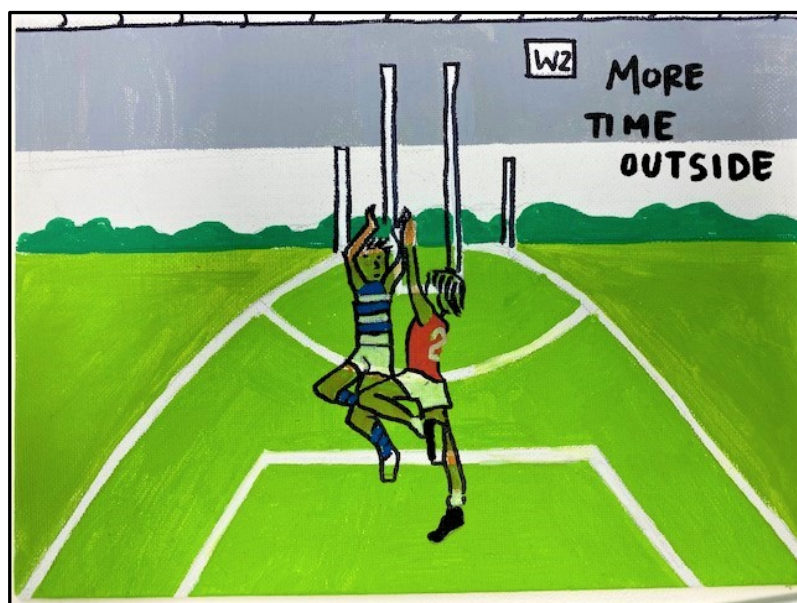
It is highly concerning that many of the very young detainees who frequent the training centre have disabilities, are in care, and are Aboriginal. We are not aware of any program operating in South Australia that directly addresses these concerns and supports these children to address underlying reasons that lead to incarceration.

### *Explanatory charts*

Attachment 4 to this report provides charts and commentary about -

- Individual children and young people detained at KTYJC, 2020-21
- Number of individuals detained at KTYJC during 2020-21, by age
- Separate admissions to KTYJC, 2020-21

- Number of separate KTYJC admissions during 2020-21, by age
- Average daily population KTYJC, 2020-21
- Number of individual children and young people detained at Kurlana Tapa Youth Justice Centre, 2017-18 - 2020-21
- Proportion of Average Daily Population of KTYJC by Aboriginal Status 2020-21
- Proportion of Average Daily Population of KTYJC by Gender 2020-21
- Proportion of Average Daily Population of KTYJC by Guardianship of the Chief Executive Status 2020-21
- Average Daily Population of 10-13 year olds (inclusive) at Start of Admission 2020-21
- Proportion of individuals, admissions and average daily population Aboriginal children and young people detained at Kurlana Tapa Youth Justice Centre 2017-18 - 2020-21
- Proportion of individuals, admissions and average daily population for girls detained at Kurlana Tapa Youth Justice Centre 2017-18 - 2020-21
- Proportion of individuals, admissions and average daily population for children and young people in care and detained at Kurlana Tapa Youth Justice Centre 2017-18 - 2020-21
- Proportion of individuals, admissions and average daily population for children and young people aged between 10-13 (inclusive) detained at Kurlana Tapa Youth Justice Centre 2017-18 - 2020-21



## 3. What we did in 2020-21

### 3.1 Promoting detainees' best interests

Anyone involved in administering the Youth Justice Administration Act 2016 must consider and promote the wellbeing and best interests of detained children and young people<sup>8</sup>. The Safety Act adds broader safeguarding and welfare obligations<sup>9</sup> that prioritise “early intervention in matters where children and young people may be at risk”<sup>10</sup>.

The TCV must explore and respond to systemic issues that impact upon current detainees or those who are likely to enter, or re-enter, custody. To do this effectively, the TCV must actively engage with broader youth justice and related sectors to understand issues and influence outcomes.

Detainees' issues, circumstances and opportunities are promoted –

- in our daily work
- through articles and reports published on the website and blog managed by the Office of the Guardian
- through liaison with government and non-government agencies, with journalists and community leaders
- by addressing seminars, or contributing to workshops and training, and by
- maintaining a constructive and cooperative relationship with DHS Youth Justice, particularly the staff and management of the KTYJC.

### 3.2 Visit

#### *The Visiting Program*

The TCV must visit the KTYJC and can “inspect all parts of the centre used for or relevant to the custody of youths”. In doing so, she may inquire about the care, treatment and control of detainees and take any other necessary action to exercise her functions. In practice, we are responsive to circumstances, as

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<sup>8</sup> Section 3(2)(a) of the *Youth Justice Administration Act 2016*

<sup>9</sup> Under s.5 of the *Children and Young People (Safety) Act 2017*

<sup>10</sup> *ibid.* s.9

demonstrated in 2020/21 by adjustments to the visiting program to accommodate COVID 19 requirements.

Visiting is a core TCV function. We aim to 'sight' every detainee and give them the opportunity to speak with us, privately if requested, during each visit. Despite the challenges of COVID 19 we maintained at least fortnightly visits to the KTYJC. Visits usually comprised two TCVU staff who spoke directly with residents and observed operations, most often within accommodation units but also at school and when the young people were participating in sport.

Visits are young person-led in the sense that we are open to whatever they want to discuss. Relationships and trust develop over time and the young people are informed about their rights in custody. We follow up about individual or collective matters and may seek specific feedback from young people about issues such as the impact of KTYJC consolidation at Goldsborough Road or their opinions about the 2020 introduction of body-worn cameras.

Post-visit debriefing with centre management resolves most matters expeditiously while identifying others for ongoing work, potentially with the aim of promoting systemic change.

The discussion about Visiting in the TCV's Pilot Inspection Report (2020)<sup>11</sup> remains relevant.

### *Issues and Themes*

The visiting program drew attention to important matters in 2020/21, some of which continue to be a focus for TCVU work, including -

- continued over-representation of some groups (Aboriginal children and young people, those from residential care, and some with high level mental health or disability related needs)
- concerns of some Aboriginal children and young people that they were treated differently and, at times, subject to discrimination by some staff (with views also expressed about not being consulted appropriately in early planning and development of the Cultural Connection Space (Cultural Garden))
- issues specific to the girls and young women
- access to responsive medical care (24 hours, every day)

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<sup>11</sup> Training Centre Visitor (June 2020), *GREAT RESPONSIBILITY: Report on the 2019 Pilot Inspection of the Adelaide Youth Training Centre (Kurlana Tapa Youth Justice Centre)* <http://www.gcyp.sa.gov.au/wp-content/uploads/2020/07/TCVU-inspection-report-2020-web.pdf>

- inadequate treatment and options for children and young people with major mental health issues, including the necessity for separation and use of canvas coverings if considered 'at risk'
- lack of understanding about how best to respect and support participation in cultural/religious events (such as Ramadan)
- access to interpreters
- the care, treatment, and control of young people with disabilities
- the impact of centre wide lockdowns despite incidents usually affecting only one unit
- the ongoing operational impact of staff shortages and rostering difficulties
- bullying between young people, and
- resident feedback and complaint processes.

### *Reviews of Records*

Selected records are requested quarterly for review, this year including documentation about all critical incidents, detainee complaints, programs available to residents, medical intervention, and staff training. This process is resource-intensive (in staff time) but essential for maintaining a robust understanding of the KTYJC environment and monitoring core operational processes.

Matters which may not otherwise have come to the TCV's attention are identified and followed up, including those relating to specific incidents recorded by detainees and staff in incident comment sheets.

The most notable observation corroborated by our reviews of records is that no unclothed searches were imposed on children and young people since 8 August 2020 due to the introduction of Wave Scanner technology. The TCV's early critique of this undignified, and unnecessary practice led to this broadly supported change. There was also a welcome reduction in the use of 'safe rooms' and Restricted Routines to manage behaviours.

Other systemic matters being explored following reviews include the use of handcuffs for on-site detainee movements at night, food hygiene, and non-healthcare/medically trained workers being required to assess or monitor the need for medical attention.

The introduction of the Digital Operations Recording and Information System (DORIS) system this year has resulted in significantly improved access to KTYJC operational data for the TCV's monitoring purposes.

### 3.3 Detainee Views

The Act requires the TCV to seek detainee views, promote their best interests and support them to realise their entitlements as summarised in the Charter of Rights.

The TCV Program is delivered in a way that allows the young people to understand and contribute meaningfully to its ongoing development. Initial consultation in May 2018 identified their preferences about how to implement our advocacy and visiting functions. We revisited this process to help maintain a responsive, accessible, and culturally appropriate service by offering all detainees the opportunity to be interviewed in December 2020 and May 2021.

Participation was confidential and voluntary, ensuring that a child or young person was comfortable to participate, without other detainees present. This allowed our Advocates to build rapport and answer any questions. Interviews were semi-structured and focussed on both advocacy and visiting functions.

**Advocacy questions** focussed on-

- how the young people perceived advocacy and what the most accessible language might be
- drawing out features or principles they saw as important, and
- practical matters such as preferred self-referral methods and how we can best update them on advocacy progress.

**Visiting questions** focussed on-

- their views about practical matters such as the frequency and 'style' of visits and their preferred activities
- how we could or should share information and provide feedback, and
- identifying issues that they want to discuss in the future.

#### *Key Interview Messages*

The most common view was that we should visit more often, with concern expressed that they might forget issues before the next fortnightly visit.

- *'If one of the boys gets smacked and he wants to talk about it, no one here listens. After 4 or 5 days, he forgets. So, if you were here once a week, it would be better'*
- *'Visit more often, weekly if you can't do daily'*
- *'I get stressed out that on weekends and after 5pm, I can't raise issues'*

Consistent with 2018 feedback, young people said that they were most comfortable and willing to share information with Advocates they knew and

trusted. Some indicated that Advocates were a central, and in some cases only, source of non-institutional support during their incarceration.

- *'With most staff, I don't express what I'm feeling 'cause I think they don't care'*
- *'I don't like to call people. Since I come here, I don't call no one. Everyone is fake. I'd rather not waste my time'*
- *'You have to help us; you are our Guardians while we are in here'*
- *'Workers have been treating me better since talking to you. ... I'd been trying to tell people that [I process things differently] ever since I came here but no one listened until you guys'*

When asked how to improve the TCVU program, detainees said that they valued timely results, regardless of the outcome, and being kept informed throughout an advocacy process: *'Process is too slow'*.

Young people were also clear about our observational role during visits: *'Don't just talk to us'*, sometimes just be in the unit space and watch the interactions.

We should therefore pay attention not just to what is said but to the array of other factors to be observed during a seemingly simple event called a visit. A critical but poignant comment was made about the relationships that develop: *'They [ie Advocates] are not useful when you walk past without even saying hello'*

Popular themes nominated for regular TCVU oversight were -

- food and nutrition
- promoting potential co-education opportunities
- addressing inconsistent treatment by staff
- bullying/assault by fellow residents.



## 3.4 Inspect

### *The Inspection Function*

While required to inspect the ‘training centre’, practical matters like frequency and method are left for the TCV to determine. A pilot inspection model was developed for the 2019 inspection<sup>12</sup> with the subsequent report tabled in Parliament in mid-2020, marking the culmination of the two-year establishment phase of the TCV Program. Our approach was informed by the Act and associated guidance such as the *Aboriginal and Torres Strait Islander Youth Justice Principle*<sup>13</sup>, international covenants, and the *Charter of Rights for Youths Detained in Detention Centres*. We also reflected on policy and practice in analogous jurisdictions in Australia and elsewhere, reports from recent inquiries and Royal Commissions and good practice guidelines identified by the Australasian Youth Justice Administrators Group and others.

There was no inspection in 2020-21. This was partly because the process is resource intensive and we have limited capacity but also because of uncertainty about the potential impact of OPCAT which was expected to start in 2021 (see Part 5.2). (The commencement of OPCAT was subsequently pushed back from 2021 to 2022.)

A full inspection must consider all aspects of the lives of detainees and the systems that determine the quality of their care, treatment, and control. They must have a voice in the process and, as inspecting body, the TCV must pay “particular attention” to the circumstances of detained children and young people who are Aboriginal, under guardianship (ie ‘in care’) or who have disabilities. As with the 2019 Pilot Inspection, oversight must also consider the situation of groups such as girls or young women, the very young, detainees from culturally and linguistically diverse backgrounds and those who require attention to ensure that systems respond well to issues associated with sexual orientation or gender identity and expression.

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<sup>12</sup> Training Centre Visitor (June 2020), op cit

<sup>13</sup> In Part 2 of the *Youth Justice Administration Regulations 2016* (see Attachment 2).

### *Inspection Report Recommendations – what has happened?*

The Pilot Inspection Report contained ten recommendations<sup>14</sup>, all of which were accepted by the Government. The essence of the recommendations was that it is time to revisit some ‘fundamentals’ of the KTYJC’s philosophy and operations. What is it doing and why?

The TCV Pilot Inspection Report was tabled in Parliament in June 2020. This section provides an update about actions taken since then, over the last year to the end of June 2021. A further update will be provided in next year’s Annual Report.

DHS has provided feedback about implementation as at 30 June 2021. Noting an alignment with many actions outlined in the *Young People Connected, Communities Protected: South Australia’s Youth Justice State Plan 2020-23*, the Department’s full response is included as *Attachment 1*.



There is substantial crossover between Pilot Inspection Report recommendations and Youth Justice State Plan commitments in relation to -

- grievance/complaint/feedback procedures
- responsiveness to Aboriginal children and young people, a focussed Aboriginal Engagement Plan and Elders Visiting program
- meeting the needs of child protection and youth justice “dual clients”
- outcome measures with other agencies, including DCP, Health and Education
- throughcare as well as transitions in areas such as school (re)engagement
- ‘section 34 leave’ applications (to participate in various off-site activities)

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<sup>14</sup> See full text at page 16, <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2021/04/TCVU-inspection-report-2020-web.pdf>

- digital logging and case management capacity, and
- delivering evidence-based therapeutic care models.

DHS also generated or procured several reviews that were finalised in 2020/21 which similarly resonate with Pilot Inspection Report recommendations.

The table below provides DHS' headline comment about implementation status: *progressed, progressing, yet to commence* or *completed*. (DHS' detailed comments are included in *Attachment 1*, providing a fuller explanation.) The second column in the table contains the TCV's comments about the departmental feedback.

DHS highlighted some 2020-21 implementation activities, all of which the TCV agrees indicate positive progress (noting that some are at preliminary stages only):

- finalisation of a Practice Framework encompassing an end-to-end case management model, assessment, intervention, and transition
- consolidation of custodial services at the KTYJC
- reviewing improved client feedback and complaints mechanisms; continuing to develop the overall service model; finalising design for the new accommodation units; and consulting with detainees and staff on the consolidation of services, and
- working closely with DCP about 'dual order' children and young people.

Recommendation and DHS headline response <sup>15</sup>	TCV comments about DHS response
<b>Recommendation 1</b> review KTYJC model and practices to assess how they promote rehabilitation and reintegration, when balanced with security and correction <i>'Progressed'</i>	<p>The "KTYJC model" refers to the rationale for a response to youth justice offending that involves locking children and young people up in a carceral, detention environment. A review should examine whether and how that overarching logic achieves the rehabilitative goals of the Act.</p> <p>DHS work to date does not do this. A review of "[t]he operational model ... through the Kurlana Tapa Consolidation Program of work" is not a substitute for that exercise.</p> <p>DHS is working through other useful processes as noted.</p>

<sup>15</sup> See Attachment 1 for full DHS response and commentary.

<b>Recommendation 2</b> independent review of the Behaviour Support Framework <i>'Progressing'</i>	Not commenced.
<b>Recommendation 3</b> grievances and feedback <i>'Progressed'</i>	The TCV is awaiting the opportunity to contribute to a clear process.
<b>Recommendation 4</b> assessment of operational matters <i>'Progressed'</i>	<p>The recommendation raises detailed, important matters that affect children and young people in detention.</p> <p>While positive work is proceeding, especially through the campus redevelopment process, the full agenda identified in the recommendation is not being addressed, for example –</p> <ul style="list-style-type: none"> <li>• aspects of staffing (competencies and availability)</li> <li>• “access to core services at all times”</li> <li>• ‘separation’ for different status detainees (eg on remand; sentenced; under Youth Treatment Orders)</li> <li>• a ‘step down’ facility.</li> </ul>
<b>Recommendation 5</b> data collection, analysis and reporting <i>'Progressed'</i>	<p>DHS systems are developing, and dialogue about access to monitoring data and information has progressed well.</p> <p>It is too early to say whether information about detainees held by other agencies will be as accessible (or sufficiently compatible for application in the youth justice environment).</p>
<b>Recommendation 6</b> Aboriginal detainees, including annual public reporting <i>'Progressed'</i>	<p>Work in this area has progressed as noted by DHS. Not much has yet changed for Aboriginal detainees themselves but it is positive that real effort is underway at a systems level.</p> <p>It is unfortunate that DHS has not indicated when an initial annual report about implementation of the Aboriginal and Torres Strait Islander Youth Justice Principle will be provided.</p> <p>The TCV has not yet been consulted about the proposed review of the Aboriginal and Torres Strait Islander Youth Justice Principle.</p>

	The TCV's Aboriginal staff have identified several other specific matters that need further discussion.
<b>Recommendation 7</b> better programs and services <i>'Progressed'</i>	<p>While the identified new initiatives are welcome, more and better programs and services are still needed, noting the particular categories flagged in the recommendation–</p> <ul style="list-style-type: none"> <li>• girls/young women</li> <li>• culture and community</li> <li>• personal development and self-identification across life domains (including Sexual Orientation, Gender Identity and Expression)</li> <li>• drug and alcohol misuse</li> <li>• independent living skills</li> <li>• educational, community and cultural opportunities</li> <li>• anti-bullying and peer support</li> <li>• transition to post-detention life.</li> </ul>
<b>Recommendation 8</b> disabilities, psycho-social and developmental needs <i>'Progressed'</i>	<p>Some very positive work is underway, but a lot more needs to be done.</p> <p>The TCV is not aware that DHS has a comprehensive, articulated plan, coordinated with other agencies, that will “improve the assessment/diagnosis and support for detainees with diagnosed or suspected disabilities and unmet psychosocial or developmental needs”.</p>
<b>Recommendation 9</b> review case management for post-release success and community reintegration <i>'Progressed'</i>	<p>Work in this area has progressed and is likely to lead to better life outcomes for detained children and young people.</p>
<b>Recommendation 10</b> detainee data <i>'Completed'</i>	<p>This process is working well.</p> <p>The imminent <i>Memorandum of Administrative Agreement</i> between DHS and the TCV will formalise this and other data related arrangements.</p>

## 3.5 Advocate

### *TCVU Advocacy model*

The TCV advocates on behalf of detainees “to promote the proper resolution of issues relating to their care, treatment or control” as required by s 14(1)(d) of the Act.

Our Advocacy approach differentiates these issues in three ways -

- matters that can be immediately resolved;
- enquiries; or
- formal advocacy matters.

Depending on circumstances and the wishes of the child or young person, a matter may also be monitored in various ways. For example, a TCVU Advocate may attend case conferences or other meetings or maintain active dialogue with KTYJC staff and other service providers with respect to day-to-day developments.

### *Matters for Immediate Resolution*

Many issues that arise through the visiting program (or in other ways such as a phone call from a detainee) are resolved quickly and relatively informally with centre staff or management or specific KTYJC or other agency work units. Such matters arise frequently, may involve several children and young people, and can re-emerge over time. They are not recorded as advocacy matters for reporting purposes.

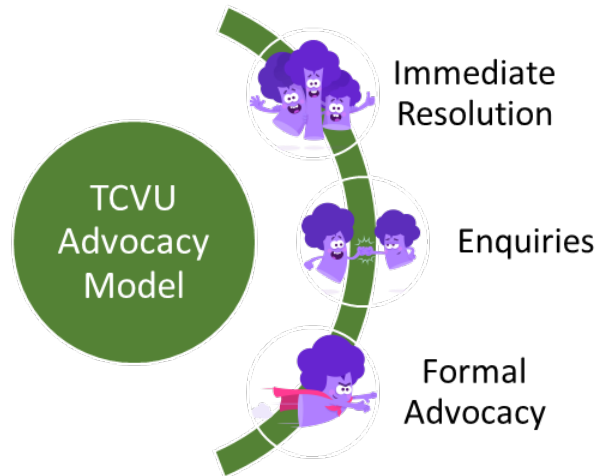
### *New Enquiries and Advocacy Matters*

Sixty-five new issues were dealt with as enquiries in 2020-21, with a further fifteen initiated as formal advocacy matters. Although we note the decreased population in the centre over the last year, our view is that the lower number of formal advocacy matters was largely due to processes developed by the TCVU and KTYJC to enable early discussion and responsiveness to young people’s concerns. A contributing factor was commencement of the SADI project which allowed the SADI Senior Advocate to engage intensively in the crossover child protection/youth justice environment.

Where appropriate, we also sought to transform what might be an individual advocacy matter to systemic, strategically oriented pieces of work. Important examples are discussed elsewhere in this report, including with respect to -

- nutrition (including in relation to its cultural context)
- dual involved children and young people through the SADI project

- children and young people with gender identification issues, and, critically -
- the care, treatment and control of children and young people dealing with serious mental health and developmental challenges.



Enquiries and advocacy matters can arise from any aspect of a child or young person's life in detention. Just some of those addressed in 2020-21 that have not already been mentioned, have involved issues as diverse as -

- approval of family members or friends for phone contact
- placement concerns and related aspects of post-release arrangements
- education issues
- access to natural light in the accommodation units
- safety within the unit (raised in relation to both staff and other residents)
- views expressed about staff conduct/discrimination/racism
- requests for respite, and
- health care issues, including the availability of second opinions about treatment.

A few matters proceeded as 'best interests advocacy', that is, were pursued by the TCV and her staff for a child or young person who was considered not capable of giving informed consent to an advocacy intervention on their behalf.

Whenever possible we support detainees to advocate on their own behalf, including through the KTYJC's Youth Advisory Committee or feedback/complaints process.

### 3.6 Inquire and advise (own motion)

The TCV must “inquire into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care, treatment or control of residents of a training centre and/or the management of a training centre” [s.14(1)(e)].

#### *Ongoing advice*

In the course of the reporting year the TCV had two meetings with the Minister for Human Services, in July and November 2020.

The TCV wrote to the Minister to provide specific advice that, as it currently stands, the KTYJC environment is not capable of providing the support and effective treatment required for a child or young person who is detained and who has a significant mental illness. The TCV advised that, just as with adults who are charged with an offence likely arising from their illness, children and young people need treatment in a secure but therapeutic setting staffed by skilled and qualified mental health practitioners.

#### *Formal Inquiries*

The TCV initiated no *formal* inquiries in 2020-21. The TCV did not have capacity (staff resources) to undertake a formal Inquiry in addition to carrying out her other functions.

### 3.7 Inquire and investigate (at Minister’s request)

The TCV must “inquire into and investigate any matter referred to the Visitor by the Minister”: s.14(1)(f). No matter was referred for investigation in 2020-21.

## 4. Strategic Issues

In this section we introduce some important systemic issues dealt with by the TCV in 2020-21, all of which are of ongoing importance. While not an exhaustive list, discussion below seeks to provide some insight into how the lives of detained children and young people are affected by broader social, systemic or policy factors.

The seven areas are –

- Culture
- The SADI Project: dual involved and living between child protection and youth justice systems
- Mental Health
- Health Care
- Gender identification, and
- Food and Nutrition
- Education

### 4.1 Culture

Aboriginal detainees and those from African, Central Asian, or Middle Eastern backgrounds again sought support from the TCVU about cultural issues in 2020/21.

#### *Aboriginal Children and Young People*

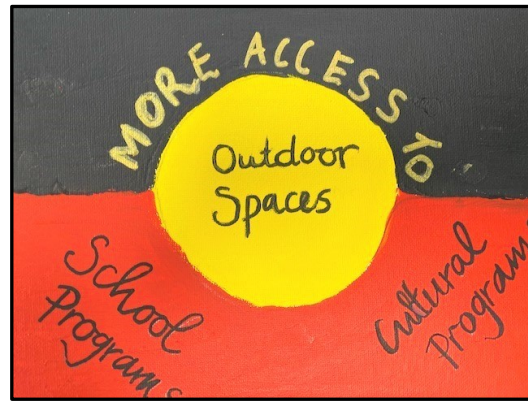
Issues raised included access to family visits and phone calls, a perception of differential treatment or racism by some peers or staff, lack of cultural support, minimal Aboriginal staff within KTYJC and limited or no cultural programs. Only one new Aboriginal cultural program was offered this year (by Uniting SA).

The young people described restricted access to the new KTYJC Cultural Connection Space due to staffing issues, distractions created by the movement of other people across the campus and weather conditions.

Since the two Aboriginal Case Coordinator positions have been filled, some Aboriginal detainees were able to work with an Aboriginal Case Coordinator (noting that these positions also provide services to non-Aboriginal detainees).

While important project work is underway in the context of the Youth Justice State Plan, there is limited access by members of the community outside standard events such as NAIDOC and Reconciliation weeks.

When the TCV and her staff (particularly Aboriginal staff) have seen Elders in the centre this appeared to provide positive engagement for all involved. Elders showed the young people that they are valued and loved, despite their offending. The pride felt by Elders when they shared their experience and wisdom was evident.



#### *Other Culturally Diverse Detainees*

Young people from African, Central Asian or Middle Eastern backgrounds mentioned experiences of racism involving some peers and staff, concern about food (including issues associated with Ramadan participation), limited cultural or religious support, concerns about co-residents, and worry about return to the community.

Responding to a spike in the number of detainees from African backgrounds early in 2021, DHS sought to have dialogue with, and generate support from, relevant local communities. A targeted support package was subsequently developed that could not be used immediately as the young people had been released.

The TCVU needed support from interpreters on several occasions.

## 4.2 SADI Project: dual involved and living between child protection and youth justice

The South Australian Dual Involved (SADI) Project is funded from February to December 2021 and draws on the skills and experience of Senior Advocate Conrad Morris backed up by the office's administrative, communications, advocacy, and policy staff, notably Senior Policy Officer, Jessica Flynn.

The SADI Project focuses on dual involved children and young people<sup>16</sup> who are under guardianship *and* are or have been detained at the KTYJC. As such they are within both the TCV's and the Guardian's areas of responsibility. In order to develop a better understanding of this vulnerable cohort and their lives; we explored why they think they are in detention. An interim project report was provided for tabling in Parliament prior to release of this Annual Report (*Six Month Snapshot of the South Australian Dual Involved Project - Children and young people in South Australia's child protection and youth justice systems*).

Conrad visits KTYJC to establish or extend relationships with dual involved detainees who can participate in the project and receive advocacy support should they wish. This has also meant engaging with families and the many agencies involved in their lives (legal and court systems, residential care, child protection, mental health, health, disability, and education).

Interviews with the young people quickly drew attention to two issues -

- a common experience of being detained in the Adelaide City Watch House (SAPOL), and
- the preference some have for KTYJC 'structures' over what they see as a less stable residential care environment.

### *The Adelaide City Watch House*

While aware that children could be held in the Adelaide City Watch House, we found that this experience is much more common than we previously thought. One young person told the Senior Advocate that they had been held there "*Like f\*\*\*g 40 times at least. They all know my name.*"

Detaining children and young people in an adult facility breaches child and human rights requirements.<sup>17</sup> While interviewees did not report sharing a cell or space with adults, some said that they were in direct view of adults, including when using the toilet, a practice that can exacerbate trauma. When asked to describe being in the watch house, one said:

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<sup>16</sup> The TCV first reported to Parliament about dual involved children and young people in the 2019 report *A PERFECT STORM? Dual involved children and young people in South Australia's child protection and youth justice systems*.

<sup>17</sup> UN *Rules for the Protection of Juveniles Deprived of their Liberty* (r.29) and UN *Standard Minimum Rules for the Administration of Juvenile Justice* (r.13.4) requires separation of juveniles pending trial and detention in a separate, or separate part of an institution holding adults.

*It's weird, man. Like you can, the old men, ... you can see them, you know, and they just look at you and you're just like shitting yourself ... It's so dirty ... They can see when you piss - yuck.*

A young woman said she had been in the Watch House about 16 times:

*Old men stare at you through the thing when you're going toilet. ... It's feral. ... Glass windows and then it has a bed, a toilet, a sink and you can't even hide yourself when you go toilet. ... Us kids go on the same floor as them [adults].*

The TCV's mandate is restricted to the KTYJC campus and does not extend to oversight of children and young people detained in police cells.

### *KTYJC structure may be preferred to residential care arrangements*

Child protection should provide safe and stable environments yet research and experience show that congregate residential care facilities are more associated with youth justice engagement and criminalisation than other alternatives.<sup>18</sup> This is not a reflection on the capacities or commitment of staff but relates to the systems and conditions not of their own making within which they must work.

SADI Project data (1 February to 31 July 2021) indicate that 92.1 per cent of dual involved detainees came from non-family-based care placements (primarily residential care) at their first admission to KTYJC. All dual involved detainees aged 13 and younger came from non-family-based care.

One young person said that they started offending when placed in residential care:

*I was just stuck there and I started getting into crime in the resi homes... Yeah, 'cause I wasn't, I didn't have no guidance, you know. Well, the workers let me do what I want and I guess they didn't really care 'cause they get paid for it so, yeah.*

When asked about their view that *"I'd rather be in here [KTYJC] than that DCP placement"* another said:

*"You have to do stuff in here ... You have to listen to the staff or you'll be locked down and they actually do listen to you in here, you know.... it's a good thing not*

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<sup>18</sup> McFarlane, Katherine 'Care-criminalisation: the involvement of children in out of home care in the NSW criminal justice system' Thesis, School of Law UNSW 2015, p 41 referring to Foucault, M. (1977) 'Discipline and Punish: The Birth of the Prison'. Allen Lane. London UK.

*having structure on the outside but like in the DCP homes you don't have no structure."*

Another said they get "no guidance" in a large residential care unit which impacts upon their education:

*So I go to FLO but no one ever says, "Do you want to go to school?" 'cause they just think, "Oh, he's, he just wants to go out and do crime," 'cause that's all they know about me when they read on the folders that and they think, "Oh, yeah, he's a bad kid. He doesn't need nothing. We can just let him, let him do his thing," you know. I don't know. I don't feel safe for my future. I feel like I'm in a road that's just going to go downhill every day.*

## 4.3 Mental Health

Children and young people in detention experience significantly higher rates of mental health disorders and mental-ill health than the general population. Mental ill-health affects wellbeing to varying degrees and manifests through difficulties with communication skills, social skills, emotional regulation and much more. Many have been subjected to abuse, trauma and/or neglect prior to their remand or sentence. The effects of these adverse childhood events can exacerbate or trigger mental illnesses including depression, anxiety, schizophrenia-type conditions and psychosis.

Legislation<sup>19</sup> and international conventions<sup>20</sup> are clear that children and young people in detention have a right to access high standard services for treatment, care and rehabilitation from mental illnesses. Advocacy around appropriate care, treatment and control for detainees in this context has proved to be a critical aspect of the TCV's work, making it unfortunate that the TCV mandate does not extend to protection of detainee rights (or oversight of their care, treatment, and control) when they are moved at times to Mallee Ward, located at the Women's and Children's Hospital.

Some detainees have diagnosed and on-going mental health disorders, but more are likely to be undiagnosed. Whilst new detainees undergo a preliminary medical

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<sup>19</sup> Notably the Youth Justice Administration Act 2016; Mental Health Act 2009; and Consent to Medical Treatment and Palliative Care Act 1995.

<sup>20</sup> Especially the Convention on the Rights of the Child (Articles 17, 24, 25) and the Havana Rules (United Nations Rules for the Protection of Juveniles Deprived of their Liberty) – Part 4 (ss49-55).

examination when admitted, there are questions about ongoing support and access to mental health services for the duration of their detention relating to:

- inability at times to attend scheduled medical appointments due to KTYJC staff unavailability
- absence of trained medical staff on weekends and after hours
- lack of KTYJC supervising staff with sufficient medical or mental health training
- the safety risk posed at times by detainees with severe mental illnesses: to themselves, staff, or fellow detainees, and
- a general lack of forensic juvenile mental health programs or facilities (eg there is no equivalent to the adult facility, James Nash House).

Over the last four years the TCV has observed several young people remanded in the KTYJC who have been experiencing pronounced symptoms of mental illness, particularly psychosis.

KTYJC is not an appropriate facility for children and young people struggling with severe mental ill-health. Just as with adults whose offending behaviour may be attributable to a mental illness, children or young people are entitled to a therapeutic setting that offers appropriate care and treatment for what is a medical condition. Where they have not yet been convicted, there must also be great concern about the extent to which their illness has contributed to the behaviour for which they have been charged and are being detained, sometimes for long periods.

The TCV observed two particularly concerning matters in the course of the reporting year. One involved a young person experiencing a mental health crisis who frequently attempted serious self-harm. This necessitated multiple urgent and decisive actions on the part of operational staff to prevent injury or death and was distressing for them. On occasions, prophylactic clothing was required that seriously compromised the young person's dignity. Despite strong advocacy by the TCV, an alternative option, to protect their dignity, was not able to be found.

A second, very troubling matter involved a young person who had symptoms of significant mental illness that were placing them and others at serious risk while they were detained on remand for over three months. The care and treatment they were receiving for their mental illness was inadequate and their circumstances were pitiful. Apart from several brief visits to the Women and Children's Hospital, the young person was required to spend long periods of time locked in their room and sometimes handcuffed when in common areas. They

were effectively restricted from fresh air, stimulation, and social interaction with others because of the risks posed by their behaviour and the limitations of the KTYJC environment for managing a resident with such needs.

Apart from a visiting psychiatric nurse from time to time, and occasional visits from a psychiatrist, there were no qualified mental health staff on site and, at times (after hours and on Sundays) no medical staff at all.

The TCV observed that unit staff and youth workers at KTYJC responded to the young person's behaviours with commendable compassion and care. But these staff do not have medical or mental health qualifications and were understandably troubled that they were required to manage the young person's treatment and even administer psychotropic medication, on an 'as needed' basis, without medical supervision.

The TCV has advocated strongly to relevant Ministers that the KTYJC environment is not capable of providing the support and effective treatment required for a child or young person with a significant mental illness. Just as with adults who are charged with offences that have likely or potentially arisen from a mental illness or mental impairment, they need treatment in a secure but therapeutic setting staffed by skilled and qualified mental health practitioners.

At this stage, no alternative has been offered. It is inevitable that this issue will occur again in the future.

## 4.4 Health Care

Services to help manage physical and mental health are relevant to everyone but are particularly important for young people in the youth justice system. Those admitted to detention facilities commonly experience high rates of unique and unmet medical needs (dental, reproductive, mental health, infectious illnesses), resulting in disproportionately high morbidity and mortality rates during their lives compared to the general population. At the same time, evidence suggests that placement within custodial environments exacerbates existing mental and physical health problems while exposing young people to infectious diseases, trauma, violence, and injury.

MY Health on-site nursing care is provided at KTYJC between 8:30am and 5:00pm Monday to Saturday (extended to 8:30pm on Mondays, Wednesdays and Fridays). Doctors provide clinical services three times weekly and a dentist attends on one day. No on-site medical support occurs out of these hours or on Sundays.

This is concerning generally, and particularly because admissions tend to occur after hours or at night, when medical staff are not available. This creates ongoing questions about the adequacy of medical support.

Information from detainees, health providers and KTYJC staff in 2020- 2021 indicates that the pathway between healthcare and juvenile justice remains fraught for some young people. On occasions, locum doctors have refused to attend or enter the KTYJC, may not be readily available and are usually not experienced with this group. The increased demand for ambulance services in South Australia means that ambulances have been slow to respond to call-outs or do not attend at all, requiring judgement by non-medically qualified staff about whether or when young people are transported to hospital.

Some prescribed medications require administration by healthcare professionals (eg Schedule Eight drugs and injections) and expertise to monitor for serious side effects (eg PRN anti-psychotics). Effectively, non-medically qualified staff must assume the risk associated with these medications due to limited on-site clinical support.

Cancellation of offsite medical appointments due to staffing shortages compounds difficulties, with at least two instances this year in which young people with chronic health problems reported ongoing pain and frustration because appointments at the Women's and Children's Hospital were halted by the KTYJC at the last minute.

A detainee who was dissatisfied with an assessment made within the Centre sought TCVU advice about whether they had the right to a second opinion about a health-related condition. Discussion of whether or when a detainee has a right to a second medical opinion is progressing.

Responsibilities for coordination of medical information and responses for detainees with complex needs are unclear. Despite multiple players potentially being involved, no one appears to be responsible for ensuring that all services know who and what has been seen, done, may be needed, or is in the pipeline (possibly involving MY Health, CAMHS, WCH, Physiotherapists (private), Optical (private), Dental, Podiatry, Radiology and DASSA). Poor integration of data systems exacerbates this problem.

As things stand, we are not clear what constitutes an Initial Health Assessment and who formally signs off that this has been completed to a sufficient medical standard. This is critical as this step constitutes the basis for a child or young person being deemed 'fit for custody'. It also is not clear what constitutes a subsequent full assessment.

We have commenced monitoring compliance with our request to be more reliably and systematically advised about critical incidents that lead to injury or detainees having to attend hospital.

## 4.5 Gender Identification

KTYJC accommodated detainees who changed their gender identification in 2020-21. On-site management of and support was sensitive and careful. However, the young people sought TCVU advocacy about some issues. This complex and sensitive area requires further thinking about systemic capacity, policies, and practices. We observed that one of the challenges for management of the centre was how to balance competing but equally legitimate detainee rights and needs.

Without going to individual circumstances or concerns, it is possible to indicate the general nature of some issues the young people raised with us.

### *Bullying, Threats and intimidation*

There was concern about bullying, threats, and intimidation from some peers, expressed through name calling, shaming, threats of violence or sexual assault, and exposing themselves. Aggression was not always verbal, with gestures sometimes used.

### *Accommodation*

It was difficult for KTYJC deal with a young person's request that they be housed in a unit for their newly identified gender due to limited available bed capacity and operational constraints, as well as the views of other detainees.

### *Access to Education*

Schooling complexities arose in the context of KTYJC risk management across detainee population cohorts and the current (COVID determined) unit-based learning process, resulting at times in transgender young people being schooled individually rather than within normal Youth Education Centre processes.

### *Isolation*

Risk assessment to identify peers who could associate safely with transgender young people meant that social interaction could be limited and occasionally non-existent. They could be isolated and only able to interact with staff (some of whom were seen to give strong support). KTYJC complexities and staffing problems meant that these young people were sometimes secured separately in bedrooms,

games rooms or in courtyards, especially when the Centre could not provide a full staff duty roster.

### *Clothing*

KTYJC supported the young people to wear clothing of their choice from within existing stocks and gave access to gender related items such as binders.

## 4.6 Food and nutrition

Food is critical to health and wellbeing as well as being a source of enjoyment and cultural expression. A balanced diet protects against chronic diseases such as diabetes, heart disease and cancer, supporting optimal growth and quality of life<sup>21</sup>. At the same time, criminalised populations are recognised as a disadvantaged group, with health needs that far exceed the general population<sup>22</sup>.

Youth justice centres are well positioned to promote health and address common risk factors such as excess body weight and poor diet. However, few studies have been undertaken on the impact of foodservice systems on detainee health in Australia.

KTYJC MUST provide food to meet all detainee nutritional requirements. Furthermore, the Australasian Standards for Juvenile Custodial facilities<sup>23</sup> requires that young people be *“provided with a variety of foods of satisfactory quality in sufficient quantities; meals are nutritious, meet special dietary needs, and their choice and preparation is influenced by young people’s preferences.”*

Concerns about food and nutrition commonly expressed by detainees suggest that:

- access to daily fruit and vegetables is insufficient and lacks variety
- there is too much reliance on highly processed sausages and deli-meats
- meals often are high in fat (eg savoury pastries, creamy pasta, spring rolls, pies)

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<sup>21</sup> Australian Institute of Health and Welfare (2018). Nutrition across the life stages. Available at: <https://aihw.gov.au/reports/food-nutrition/nutrition-across-the-life-stages/summary>

<sup>22</sup> Public Health Association of Australia (2017). Prisoner health background paper. Available at: <https://www.phaa.net.au/documents/item/2579>.

<sup>23</sup> Australasian Standards for Juvenile Custodial Facilities. Available at: <https://humanrights.gov.au/sites/default/files/Annexure%20H%20-%20AJJA%20Standards.pdf>

- carbohydrate provision is excessive given that physical activity levels tend to be lower than for adolescents living in the community
- bread and bread products are not routinely wholemeal or wholegrain (although limited quantities are available)
- there is a lack of culturally appropriate food and associated problems with meal management
- there is limited opportunity for self-catering/education (a surprising omission in a rehabilitative facility)
- serving sizes are inconsistent
- tuck shop lists are unbalanced, comprised only of discretionary foods (lollies, chocolate, sweet biscuits - promoting access to excess saturated fat, sugar and salt).

Some dissatisfaction with institutional meals is unavoidable 'and may reflect general frustrations with a lack of control over surroundings, rather than being an accurate reflection on the quality of the food actually provided'<sup>24</sup>. Notwithstanding this, KTYJC and health staff also referred to factors such as significant weight gain in custody (potentially due to not accounting for medication or malnutrition associated with drug use), with gains of up to 30 kilograms reported.

In 2020-2021, the TCVU successfully advocated for retention of a qualified nutritionist to review KTYJC food options. We see a positive opportunity to increase access to health foods and enhance food literacy, increasing the skills and knowledge of detainees and staff about nutrition, cooking and budgeting. A consistent and strategic food service can contribute to vocational education and rehabilitation.

Maintaining a focus on health and wellbeing, the TCVU will continue to work with children and young people to improve access to healthy food and lifestyles, ultimately supporting improved reintegration into the community.

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<sup>24</sup> Williams, P., Walton, K., & M, Hannan-Jones (2009). Prison foodservice in Australia – systems, menus and inmate attitudes. *Microbiology and Biotechnology Letters*, 20(4): 167-180

## 4.7 Education

Some of the principal objects of the *Youth Justice Administration Act 2016* are to promote rehabilitation and reintegration of detainees and their 'development into responsible members of the community'<sup>25</sup>. Education is one of the key opportunities to achieve this. It is provided on campus by the Department for Education's Youth Education Centre (YEC).

Most of the detainees have had a history of very poor engagement with formal education during their lives and have often not attended school 'on the outside' for years.

*This is the only school I have been to since year seven' [young woman, aged 15 years]*

*I can't read and write properly. Like I used to be the best reader and the best writer when I was at home with my mum but now I can't read or write, can't tell the time on the clock, don't even know my times table, not even my five or my tens. Yeah, that's the exact reason why I don't want to go to school. I just feel dumb, you know. Everyone else is in there flashing out all their work and I'm just sitting there. Like I'm still on the first question. That's why I just don't go to school.*

The young people consistently tell us they value education and know that they need to learn to read and write –

*... no one ever says, "Do you want to go to school?" 'cause they just think, "Oh, he's, he just wants to go out and do crime," 'cause that's all they know about me when they read on the folders that and they think, "Oh, yeah, he's a bad kid. He doesn't need nothing. We can just let him, let him do his thing," you know. I don't know. I don't feel safe for my future. I feel like I'm in a road that's just going to go downhill every day.*

And they value their experience of school offered by the YEC –

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<sup>25</sup> Section 3(1)(e) of the Act

*If you're in here for a long time you get actual schooling in here. I'd like to learn to be a mechanic in here.*

*The teachers really care*

*It's good because you get one-on-one support*

*The teachers are really good.... They'll try to help you do some work.*

Some children and young people have even told us they would be willing to attend school, during 'school holidays' because it is more interesting than some of the other options available, including time in units, and especially during the January period.

The YEC is unlike any other school in South Australia, facing unique challenges. Ninety per cent of students have a disability<sup>26</sup>. Students are aged between 10 and 18 but there is not necessarily any correlation between a student's chronological age and their educational level, with many functioning at a junior primary school level of literacy. Students may be in the centre for days, or years, with an average stay of five weeks. Some of those who stay for relatively short periods return to the centre multiple times over a period of seven or eight years. Some leave the centre, at 18, barely able to read or write.

In light of the Department for Education's vision for World Class Education to achieve [\*growth for every child, in every class in every school\*](#), some of the standard departmental policies developed for 'mainstream schools' do not appear to be 'fit for purpose' when it comes to responding to the unique YEC environment and the distinctive characteristics and needs of the KTYJC population.

For instance, some of the requirements around staff recruitment could better reflect the qualities and experience teachers need to be able to connect with, and inspire, this particular cohort of young people. And the value of maintaining trusted relationships with young people who may return to the centre, in some cases over years, should influence consideration of tenure. The TCV is confident that departmental consultation with the detainees themselves would confirm this view.

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<sup>26</sup> Department for Human Services 2020, *Disability Screening Assessment Project Report: Identification of Population Needs at the Adelaide Youth Training Centre (Kurlana Tapa)*. Adelaide, Australia: Youth Justice Assessment and Intervention Services

In particular, the current school year with four fixed terms and mandatory holiday periods represents a wasted opportunity to offer education to children or young people who may only be detained for short periods of time over holiday periods.

The TCV has been involved with discussions with the leadership and staff of the YEC, and the Department for Education, about the value of offering a school program all year round. This would take up the window of opportunity available, with detainees who value their experience at the YEC and their relationships with staff, and 'add value' to the already significant state investment involved in detaining a young person which is \$3,121 per individual per day<sup>27</sup> and a total of over \$1m for a year.

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<sup>27</sup> Productivity Commission 2021, *Report on Government Services 2021*, Youth justice Services, Table 17A.20  
Australia: Australian Government <https://www.pc.gov.au/research/ongoing/report-on-government-services/2021/community-services/youth-justice>

## 5. The changing landscape

### 5.1 Unresolved statutory problems – Scope and Limitation of Powers

Serious matters that go to the heart of the TCV's capacity to meet her statutory obligations were raised in the first Annual Report (2017-18) and remain unresolved.<sup>28</sup>

#### *Other places of detention of children and young people*

Children and young people continue to be detained in places not subject to the requirements of the Act and thus not within the scope of TCV oversight and support. These include custody in police cells or in the Youth Court, secure medical facilities and when under the control of a private security firm, in transit.

It is concerning that such places of detention are not formally subject to child-focussed, independent oversight, especially if sites also hold adults. Some groups identified in the Act may be at particular risk (Aboriginal children and young people, those under guardianship, and those with a physical, psychological or intellectual disability).

#### *Restrictive interpretation of "resident of the training centre"*

Crown Law has advised that the term "resident of a training centre" is to be interpreted restrictively. This compromises the TCV's capacity to properly implement her Advocacy function. KTYJC detainees come within the TCV's mandate only when they are *physically* within centre precincts. This means that KTYJC detainees pass in and out of the TCV's oversight powers although they are always 'in custody'. On the other hand, the Minister's ambit of responsibility covers detainees within *or* outside the centre.

#### **24 Minister has custody of youths in detention**

*The Minister has the custody of a resident of a training centre, whether the resident is within, or outside, the precincts of a training centre in which he or she is being detained, or is to be detained.*

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<sup>28</sup> One is being addressed by administrative action to allow the TCV to delegate her functions and powers to TCVU staff. Although helpful, it will be appropriate to assure TCV independence by amending the Act accordingly.

There are numerous reasons why a child or young person may be temporarily absent from the centre but is still a 'detainee' and a 'resident of a training centre' (if not a 'resident in a training centre'). Yet, as it stands, TCV advocacy technically still cannot extend to what happens to a detainee while they are away from the KTYJC campus for various reasons: medical attention (especially when a young person is taken to or restrained within Mallee Ward, the child psychiatric unit at the Women's and Children's Hospital); attendance at court; a funeral; education or training and so on. Disjointed oversight is clearly not in a child or young person's best interests.

### *Compromised advocacy function*

The national *Royal Commission into Institutional Response to Child Sexual Abuse* (2017) noted the importance of access to trusted adults and improved access to support, including advocacy, for children in detention. Their rights are seriously undermined if a restricted reading of the term 'resident of the training centre' creates a barrier preventing them from receiving responsive advocacy at the time it is needed.

The TCVU's experience suggests that children and young people need access to advocacy from the time they are sentenced or remanded to the time they are released. In some cases, post-release advocacy also should be available to ensure through-care. This is consistent with views commonly expressed to us by the children and young people with whom we work.

Parliament is urged to amend the *Youth Justice Administration Act 2016* to ensure that a child or young person has access to TCV support from the time they are sentenced or remanded to detention in the KTYJC to the time of their release. This could be achieved by a simple amendment to section 14 of the Act and associated Regulations as proposed previously by the TCV.

## 5.2 New oversight responsibilities ... OPCAT and YTOs

### *OPCAT*

Australia ratified the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) in December 2017. The main aim of this agreement is to prevent the mistreatment of people in detention and establish an independent National Preventive Mechanism (NPM) to inspect all places of detention and closed environments and provide preventive oversight.

The Commonwealth and State/Territory governments are negotiating to establish an NPM based on a 'diffuse' model operating in each jurisdiction rather than as a single centralised body. The TCV is involved in discussions about the application of OPCAT to places of detention for children and young people in South Australia, with a bill before parliament as this report was being finalised. It is expected that the TCV will be designated as an NPM to commence responsibilities from January 2022.

It is not expected that the TCV's scope will extend to all "places of detention and closed environments" that hold children and young people that come within OPCAT's ambit. It is currently unclear if or when child and youth specialist oversight will extend to police lock-ups and police stations, psychiatric units, immigration detention centres, court custody centres and holding cells, transport vehicles for detainees or those who have been arrested, and any secure care facilities for children and young people in statutory out-of-home care.<sup>29</sup>

The TCV's functions under s.14 of the existing (*Youth Justice Administration*) Act are complementary to, but not the same, as an OPCAT NPM's responsibilities. Current responsibilities apply only to detainees while physically within the KTYJC, so significant questions of mandate and capacity may well arise in relation to meeting NPM operational requirements.

### *New secure facilities/programs*

Depriving children and young people of liberty must only ever be a measure of last resort<sup>30</sup>. Whether for forensic, therapeutic, rehabilitative, 'safekeeping' or other purposes, options that incarcerate children and young people must satisfy rigorous requirements. Any new model, service or program that compulsorily detains children and young people should adhere to human/child rights principles and protections, have service and systemic coherence, and be resourced adequately. All should be recognised as places of detention for OPCAT purposes.

The TCV has argued this position over the past two years in relation to proposals for new compulsory secure care options. In 2019-20, this included advocacy to the Minister for Child Protection that all residential care facilities should be

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<sup>29</sup> Australian Human Rights Commission 2016, *Children's Rights Report 2016* (p78)  
[https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC\\_CRR\\_2016.pdf](https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_CRR_2016.pdf)

<sup>30</sup> Article 37(b), UN *Convention on the Rights of the Child* - "No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time".  
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

appropriately resourced and based on a model that ensures intensive therapeutic services are available to the children and young people who need them. In August 2020 the Minister confirmed, based on overwhelming sector feedback, that the Government would not be pursuing a new model of secure therapeutic care at this time.

### *Youth Treatment Orders*

The same requirements apply to the forthcoming Youth Treatment Orders (YTO) program, which will allow applications to be made to the Youth Court for an order compelling a child or young person to be assessed for, and undergo, mandatory treatment for a drug dependency for a period of up to 12 months. Phase 1 orders were proposed to apply only to KTYJC detainees,<sup>31</sup> and as such, this is a matter of great interest to the TCV.

A draft (and problematic) YTO model of care was circulated for feedback in late 2020<sup>32</sup> but this has been withdrawn, as noted by Government in late September 2021 -

*“As a result of this consultation, the state government will not pursue the previously proposed Model of Care and will instead move towards a more focused, highly targeted program, still based exclusively at the Kurlana Tapa Youth Justice Centre”.*<sup>33</sup>

At the time of finalising this report, the TCV has no information about the proposed “market approach” through which the government will engage a service provider to deliver drug assessment and treatment services within the KTYJC.

The TCV made critical representations about the initial proposed model of care<sup>34</sup>, especially in relation to assurances that core detainee rights will be observed, and will apply the same principles to whatever commercial model will now apply.

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<sup>31</sup> See Consultation on the Draft Model of Care for Youth Treatment Orders <https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/about+us/reviews+and+consultation/consultation+on+the+draft+model+of+care+for+youth+treatment+orders>.

<sup>32</sup> OGCP feedback can be found here <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2021/03/2020-12-18-OGCP-to-DASSA-YTO-MoC-submission.pdf>

<sup>33</sup> Government of South Australia 2021, *Consultation summary Draft Model of Care (Youth Treatment Orders)*. See ‘consultation summary’ link at (page 2) <https://yoursay.sa.gov.au/draft-model-of-care-for-phase-1-of-youth-treatment-orders>

<sup>34</sup> See TCV, 19 March 2019, *Rights concerns over Youth Treatment Order Bill* <https://gcyp.sa.gov.au/2019/03/19/rights-concerns-over-youth-treatment-order-bill/>

Enabling legislation, the *Controlled Substances (Youth Treatment Orders) Amendment Act 2019*, requires that the YTO Program commence in November 2021.

### 5.3 Budget/Program – resources and capacity

The TCV Program continues to operate under a redundant ‘establishment’ budget that does not enable full and adequate implementation of all TCV functions.

This has resulted in the employment of only one, rather than two, advocates so there is no dedicated Aboriginal Advocate position. This places demands on the TCV and other staff in the TCVU to take on additional visiting duties, to the detriment of other work such as implementation of the ‘TCV’s Inquiry’ function, and requires the use of temporary ‘in kind’ support from the Guardian’s Advocates’ Team. The most unfortunate impact has been the TCV’s incapacity to undertake adequate outreach and consultation with the Aboriginal community. This cannot occur within existing TCVU capacity without reducing child and youth focussed activities. Passage in September 2021 of the *Commissioner for Aboriginal Children and Young People Bill*<sup>35</sup> and proper funding for her Office will generate additional collaborative work and responsibilities.

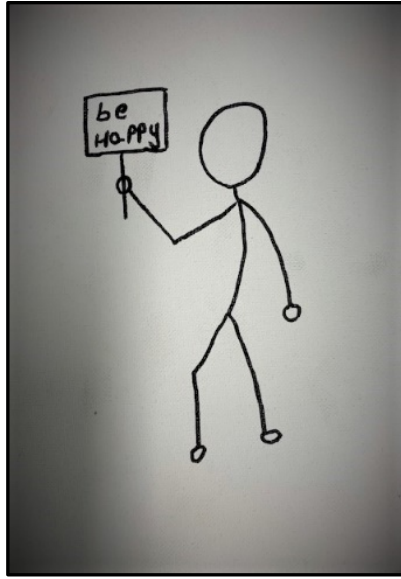
Since 2017 the TCVU staffing had been effectively funded for 2.4 FTE: Principal Training Centre Advocate, Advocate and Principal Policy Officer (.4FTE). In late 2020, the resourcing for salaries was increased to 3 FTE and the Principal Policy Officer has now been funded as a full-time position, ongoing.

In 2020, the Office of the Guardian undertook an organisational review of the three roles and associated functions held by the incumbent Guardian, including the role of Training Centre Visitor, and the capabilities of her staff. The review identified that (in addition to the full-time Principal Policy Officer position, which was to be implemented) one additional staff member (Training Centre Advocate for Aboriginal children) is required to fulfil the current statutory functions of the TCV, together with dedicated funding to support one full inspection every three years and two themed inspections in intervening years.

The outcome of the review was notified to the government (all relevant Ministers) and a business case provided for the additional resourcing in respect of the 2021 State Budget, but this was not successful.

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<sup>35</sup> *Children and Young People (Oversight and Advocacy Bodies) (Commissioner for Aboriginal Children and Young People) Amendment Bill 2020*



## 6. The Training Centre Visitor Unit

The TCV is appointed by the Governor under the *Youth Justice Administration Act* 2016 with functions that promote and protect the rights of children and young people sentenced or remanded to detention in the KTYJC.

### 6.1 Staff profile

#### ***Principal Training Centre Advocate*** (part time)

Belinda Lorek and Alan Fairley (job share from November 2017 to January 2021)

Dr Simone Deegan from January 2021 (replacing Belinda Lorek who took extended leave).

The Principal Training Centre Advocate provides management and leadership for the TCV Program.

#### ***Principal Policy Officer*** (full time)

Alan Fairley (from May 2018)

The Principal Policy Officer provides high level policy and strategic advice to the TCV, prepares policy papers, briefings and reports, and shares responsibility for management of the TCV Program.

#### ***Training Centre Advocate*** (full time)

Travis Thomas (from February 2018)

The Training Centre Advocate has a key role in the visiting program, maintains dialogue with and advocates for KTYJC residents, and liaises with KTYJC management and staff and other government and non-government stakeholders.

Conrad Morris, an Advocate from the Guardian's Advocacy Team, provided important support (.2 FTE) to the TCV visiting and advocacy role for several months (in addition to then becoming Senior Advocate for the SADI Project).

Jessica Flynn, OGCYP Senior Policy Officer provided direct support to the TCVU, especially for reviews of records, policy development and analysis for the SADI Project.

Administrative and communications support for the TCV Program was provided by staff of the Office of the Guardian for Children and Young People.

## 6.2 External strategic meetings

The nature and functioning of many strategic committees were affected to a greater or lesser extent by the impact of COVID restrictions. Those that proceeded in a substantial form, often on-line in 2020-21, included -

- Australian and New Zealand Children's Commissioners and Guardians group (ANZCCG)
- National Custodial Inspectors' Group
- National Youth Justice Detention Officers' Group
- OPCAT stakeholders' group (convened by Laura Grenfell, University of Adelaide)
- Youth Court Stakeholders Forum (lapsed during COVID)
- Meetings between TCVU, DHS Youth Justice Directorate and management of KTYJC.

## 6.3 Finances 2020-21

### Financial Summary of expenditure 2020-21 ('000)

Project 973: Training Centre Visitor

Item	Budget	Actual	Variation
Salaries and wages	356	367	11
Grants, goods and services	47	37	10
<b>Total</b>	<b>403</b>	<b>404</b>	<b>1</b>
Revenue	403	403	0
<b>Net</b>	<b>0</b>	<b>1</b>	<b>1</b>

## 6.4 Strategic and organisational planning

Our work in 2020-2021 proceeded on the basis that the tabling of the Pilot Inspection Report in Parliament in June 2020 marked the end of the establishment phase of the TCV Program. While this did not mean that all pieces were in place (especially the possible implications of an OPCAT NPM role) it did mean that core operational approaches had been established.

An important initiative during the year was engagement with detainees to revisit their views about what the TCV Program could or should do and how. This is described elsewhere in this Annual Report.

Advocating for a realistic TCV Program budget and associated staffing capacity continued to be important, with an updated business case presented to Government in late 2020. As this was not successful, planning for 2021-22 is based on a realistic assessment of the TCV's capacity to meet her statutory obligations.

In addition to focussed planning in the context of the TCV mandate, TCVU staff participated in joint planning and policy processes with colleagues from the Office of the Guardian for Children and Young People, including in relation to joint clients.

## 6.5 Workplace Health and Safety

No incidents resulted in workplace injury in 2020-21.

## 6.6 Complaints

The TCV Unit uses the grievances and complaints policy available on the Guardian's website. No complaints were received in 2020-21.

Legislation exempts information about individual cases from disclosure under s.20 of the *Youth Justice Administration Act 2016*. The TCV exemption is not listed with the Guardian for Children and Young People under Schedule 2 of the *Freedom of Information Act 1991*.

## 6.7 Freedom of information

The TCV received no freedom of information requests in 2020-21.

# Attachment 1

## Implementation of Pilot Inspection Recommendations

### Report on the 2019 Pilot Inspection of the Adelaide Youth Training Centre (Training Centre Visitor, June 2020)

This table summarises the ten TCV Pilot Inspection Report recommendations. The second column provides DHS' full comments about implementation status as at 30 June 2021 (progressed, progressing, yet to commence or completed) with the third column being the TCV's comments responding to the departmental feedback.

DHS provided the following preamble to recommendation-specific comments.

*"In 2020-21, 1 recommendation is complete, significant progress has been made on implementing 8 recommendations, with Recommendation 2, a review of the Behaviour Support Framework, still to commence. Key highlights include:*

- Development and finalisation of a Practice Framework encompassing an end-to-end case management model, assessment, intervention and transition. This aims to ensure consistent approaches and strong links to community that endure beyond a child or young person's time in the justice system.*
- Consolidation of custodial services at the Kurlana Tapa Youth Justice Centre. This work aligns with the recommendations outlined in the review of the operational impacts of consolidated services, as well as recommendations from the Training Centre Visitor, where appropriate.*
- Reviewing improved client feedback and complaints mechanisms, continuing to develop the overall service model at Kurlana Tapa, finalising design for the new accommodation units, and consulting with detainees and staff on the consolidation of services. A key objective is achieving a balance between security and reintegration, to maximise the benefits of consolidating all services onto the one site at Goldsborough Road.*
- Continuing to work closely with the Department for Child Protection on the identification and response to dual order children and young people."*

The full text of the Pilot Inspection Report recommendations is available at (page 16), <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2021/04/TCVU-inspection-report-2020-web.pdf>

Recommendation 1 Summary	DHS Comments Implementation 2020-21	TCV Comment
<p>proposed a review of the KTYJC model and associated custodial, protective and developmental policies and practices to make recommendations to ensure a balance between security and correction on one hand and rehabilitation and reintegration on the other.</p>	<p><i>The operational model is being reviewed through the Kurlana Tapa Consolidation Program of work. It aims for a balance between security and correction and rehabilitation and reintegration.</i></p> <p><i>A policy and procedure review are underway with the Pilot's recommendations as a key input to the quality assurance process.</i></p> <p><i>Lessons from the Enhanced Support Team Pilot are also being utilised to achieve this recommendation.</i></p> <p><i>Progressed</i></p>	<p>The "KTYJC model" refers to the rationale and operations applying to the current carceral institutional response to serious youth justice offending. A review should examine whether that model achieves the rehabilitative goals of the Act.</p> <p>DHS work to date does not do this. A review of "[t]he operational model ... through the Kurlana Tapa Consolidation Program of work" is not a substitute for that exercise. DHS is working through other useful processes as noted.</p>
Recommendation 2 Summary	DHS Comments Implementation 2020-21	TCV Comment
<p>proposed an independent evaluation of the effectiveness of the Behaviour Support Framework (BSF), including a focus on the needs of children and young people with varying cognitive abilities. Detainees, staff and appropriate community members should be consulted.</p>	<p><i>The Behaviour Support Framework is critical to the overall approach at Kurlana Tapa. The review of the operating model at Kurlana Tapa also recommended improvement in the approach to behaviour support.</i></p> <p><i>Work will commence in the fourth quarter 2021, taking into consideration the feedback the Training Centre Visitor gained throughout her pilot inspection.</i></p> <p><i>Progressing</i></p>	<p>Not commenced</p>

<b>Recommendation 3 Summary</b>	<b>DHS Comments Implementation 2020-21</b>	<b>TCV Comment</b>
<p>sought (including for detainees with specific communication support needs) –</p> <ul style="list-style-type: none"> <li>- a formal grievance procedure supported by independent advocacy and oversight and</li> <li>- a separate feedback mechanism for detainees about their lives in detention.</li> </ul>	<p><i>A working group has identified improvement opportunities, and these are being utilised in the policy and procedure reviews.</i></p> <p><i>Progressed</i></p> <p><i>Improvements to complaints and feedback mechanisms are being developed as a part of the consolidation program.</i></p> <p><i>Progressed</i></p>	<p>Awaiting the opportunity to contribute to a clear process.</p>
<b>Recommendation 4 Summary</b>	<b>DHS Comments Implementation 2020-21</b>	<b>TCV Comment</b>
<p>Proposed an assessment of ongoing consolidated operations, with respect to many considerations.</p> <p>This omnibus recommendation needs detailed consideration.</p> <p>For annual report purposes, we look at implementation in 20-21 with respect to three broad matters –</p> <ul style="list-style-type: none"> <li>- Consolidated operations at Goldsborough Road</li> <li>- Addressing facility deficiencies</li> <li>- Ensure detainees and staff are consulted</li> </ul>	<p><i>There is significant work being undertaken to ensure the amenities and infrastructure at Kurlana Tapa support current and future needs.</i></p> <p><i>This includes an \$18.7m upgrade to the Goldsborough Road campus. The Training Centre Visitor is a key partner in the capital works project and the consolidation program.</i></p> <p><i>Findings of the review of the operational impacts of a consolidated model are central to the redevelopment in addition to the Training Centre Visitor Inspection Report.</i></p> <p><i>Progressed</i></p>	<p>While positive work is proceeding, especially through campus redevelopment, the full agenda identified in the recommendation is not being addressed, for example –</p> <ul style="list-style-type: none"> <li>- aspects of staffing (competencies and availability)</li> <li>- “access to core services at all times”</li> <li>- ‘separation’ for different status detainees (eg on remand; sentenced; under Youth Treatment Orders</li> <li>- a ‘step down’ facility.</li> </ul>

Recommendation 5 Summary	DHS Comments Implementation 2020-21	TCV Comment
<p>data collection, analysis and reporting</p>	<p><i>The Department has and will continue to improve the collection of data and information sharing.</i></p> <p><i>Specific improvement made over the last 12 months includes the way information is recorded within Kurlana Tapa, with the introduction of an electronic logging system. Additional work has also been undertaken to improve the reporting model internally, with the addition of new counting measures and enhanced ability to report on Aboriginal nations.</i></p> <p><i>Progressed</i></p>	<p>DHS systems are developing, and dialogue about access to monitoring data and information has progressed well.</p> <p>It is too early to say whether information about detainees held by other agencies will be as accessible (or sufficiently compatible for application in the youth justice environment).</p>
Recommendation 6 Summary	DHS Comments Implementation 2020-21	TCV Comment
<p>Focussed on responsiveness to the situation and needs of Aboriginal and Torres Strait Islander detainees by –</p> <p>Publishing an annual public report on its implementation of the Aboriginal and Torres Strait Islander Youth Justice Principle, and</p> <p>That the first such report consider –</p> <ul style="list-style-type: none"> <li>- Review of the Youth Justice Cultural Champions Network, creating</li> <li>- Aboriginal detainee views</li> </ul>	<p><i>Through the State Plan, Youth Justice Services has committed to promoting strong connection to family, communities, culture, country and language.</i></p> <p><i>Aboriginal families and communities have expressed their desire for opportunities to connect and collaborate with culturally appropriate services and supports, with advocates who understand the complexity of issues children and young people face.</i></p> <p><i>Annual reporting in relation to the Aboriginal and Torres Strait Islander Youth Justice Principle is being developed. Consistent with this, a review of the principle will be undertaken.</i></p> <p><i>During 2021, Youth Justice Services commenced working with Aboriginal communities and organisations to strengthen partnerships and shared</i></p>	<p>Work in this area has progressed as noted by DHS. While not much has changed yet for Aboriginal detainees themselves, it is positive that effort is underway at a systems level.</p> <p>DHS has not indicated when an initial annual report about implementation of the Aboriginal and Torres Strait Islander Youth Justice Principle will be provided.</p> <p>The TCV has not yet been consulted about the proposed review of the Aboriginal and</p>

<ul style="list-style-type: none"> <li>- Aboriginal community views</li> <li>- the needs of detained Aboriginal girls and young women</li> <li>- KTYJC and DHS Aboriginal staff roles (and detainee access to them)</li> <li>- Detainees can maintain connection with families and community.</li> </ul>	<p><i>decision making, through the inaugural Communities and Justice Aboriginal Community-Controlled Organisations Forum.</i></p> <p><i>In addition, the following improvements, in line with State Plan deliverables, are contributing to meeting Closing the Gap targets:</i></p> <ul style="list-style-type: none"> <li>- <i>Opening of the Kurlana Tapa Aboriginal Cultural Connection Space at Kurlana Tapa, to provide a unique space for Aboriginal children and young people in custody to reflect, learn, grow and celebrate their cultural identity, spirituality and connections.</i></li> <li>- <i>Review of the Youth Justice Cultural Champions Network, creating a Communities and Justice Cultural Community of Practice, led by Aboriginal and non-Aboriginal staff. The Cultural Community of Practice is delivering on a 12-month action plan, partnering with Aboriginal communities to build cultural intelligence and culturally safe and responsive practice for working with Aboriginal children and their families.</i></li> <li>- <i>Development of an Aboriginal Visiting Program in Kurlana Tapa Youth Justice Centre.</i></li> <li>- <i>Launch of an Aboriginal Recruitment Guide and Aboriginal Employment and Retention Strategy, which is guiding strategies to increase Aboriginal employment in Youth Justice Services.</i></li> <li>- <i>Partnering with key stakeholders and Aboriginal organisations to identify and implement youth justice prevention and diversion strategies for Aboriginal children.</i></li> </ul> <p><i>Progressed</i></p>	<p>Torres Strait Islander Youth Justice Principle.</p> <p>The TCV's Aboriginal staff have identified several other specific matters that need further discussion.</p>
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Recommendation 7 Summary	DHS Comments Implementation 2020-21	TCV Comment
<p>sought more and better programs and services taking account of detainee characteristics, including –</p> <ul style="list-style-type: none"> <li>- girls/young women</li> <li>- culture and community</li> <li>- personal development and self-identification across life domains (including Sexual Orientation, Gender Identity and Expression)</li> <li>- drug and alcohol misuse</li> <li>- independent living skills</li> <li>- educational, community and cultural opportunities</li> <li>- anti-bullying and peer support</li> <li>- transition to post-detention life.</li> </ul>	<p><i>Consistent with State Plan deliverables, the Department will develop and deliver a consolidated Programs Framework and delivery plan in partnership with the sector that addresses areas of priority needs and support.</i></p> <p><i>During the first half of 2021, work has progressed in relation to partnerships, as well as training of the programs/activities team in youth mental health first aid. This has contributed to the suite of programs/activities now being offered in the centre.</i></p> <p><i>During 2020-21 Youth Justice Services also commenced:</i></p> <ul style="list-style-type: none"> <li>- <i>Delivering KIND – an intensive Adolescent Dating and Family Violence Initiative that incorporates trauma informed and family inclusive practices.</i></li> <li>- <i>Working towards increasing access to education and pathways, for children and young people at Kurlana Tapa.</i></li> <li>- <i>Commenced discussion with the Youth Education Centre to implement learning of a language at Kurlana Tapa.</i></li> </ul> <p><i>Progressed</i></p>	<p>While the new initiatives are welcome, more and better programs and services are still needed, noting the 'detainee characteristics' categories flagged in the recommendation.</p>
Recommendation 8 Summary	DHS Comments Implementation 2020-21	TCV Comment
<p>sought improved assessment and support for detainees with diagnosed or suspected disabilities and unmet psychosocial or</p>	<p><i>The implementation of recommendations from the Kurlana Tapa Disability Screening Assessment Project has commenced, in alignment with this recommendation. This includes:</i></p>	<p>Some positive work is underway, but a lot more needs to be done.</p> <p>The TCV is not aware that DHS has a</p>

<p>developmental needs, with a focus on -</p> <ul style="list-style-type: none"> <li>- staff training</li> <li>- a physical environment that accommodates sensory needs</li> <li>- disability support</li> <li>- collaboration to ensure a consistent therapeutic environment</li> <li>- disability-related data/information</li> </ul>	<ul style="list-style-type: none"> <li>- <i>development of a Sensory Modulation Framework – to provide children and young people with the knowledge and resources to understand their sensory processing needs and develop self-regulation skills.</i></li> <li>- <i>Improving Communication Access to improve children and young people's understanding of information communicated to them through sustainable enhancements to communication processes.</i></li> <li>- <i>Review of assessment tools and consideration the trial of a disability screening tool.</i></li> <li>- <i>Commencement of the establishment of the Pilot Enhanced Support team.</i></li> <li>- <i>Development of disability and trauma training for Youth Justice Services staff.</i></li> </ul> <p><i>Progressed</i></p>	<p>comprehensive, articulated plan, coordinated with other agencies, that will “improve the assessment/ diagnosis and support for detainees with diagnosed or suspected disabilities and unmet psychosocial or developmental needs”.</p>
<b>Recommendation 9 Summary</b>	<b>DHS Comments Implementation 2020-21</b>	<b>TCV Comment</b>
<p>sought a review of case management to reduce reoffending and maximise opportunities for post-release success and community reintegration.</p>	<p><i>Youth Justice Services is committed to strengthening end-to-end case management and ensuring the young person's voice is at the centre of assessment, planning and service delivery, through State Plan action 3.6. As highlighted during journey lab insights, the transition from custody is a focus area within the State Plan. This work is being considered as part of the practice framework project.</i></p> <p><i>A project is underway to better connect the Custodial Case Management Team within Community Youth Justice, based at Riverside and the Assessment and Case Coordination team, based at Kurlana Tapa.</i></p> <p><i>Progressed</i></p>	<p>Work in this area has progressed and is likely to lead to better life outcomes for detained children and young people.</p>

Recommendation 10 Summary	DHS Comments Implementation 2020-21	TCV Comment
<p>proposed that DHS and DCP liaise to maintain an accurate record of 'dual-involved' detainees (ie are also in care) and that their status is recorded in the Daily Population Spreadsheet.</p>	<p><i>A daily population record is maintained and is provided to the Training Centre Visitor Unit.</i></p> <p><i>Completed</i></p>	<p>This process is working well.</p> <p>The imminent Memorandum of Administrative Agreement between DHS and the TCV will formalise this and other data related arrangements.</p>

# Attachment 2

## Aboriginal and Torres Strait Islander Youth Justice Principle

For the purposes of the Act, the Aboriginal and Torres Strait Islander Youth Justice Principle is as follows:

- a) that, in acknowledging the diversity of Aboriginal and Torres Strait Islander communities, the individual cultural identity of Aboriginal and Torres Strait Islander youths be recognised and their beliefs and practices be supported, respected and valued;
- b) that Aboriginal and Torres Strait Islander youths will be supported to uphold their cultural responsibilities and have access to, and participation in, cultural ceremonies, funerals and cultural practices, relevant to their individual cultural identity;
- c) that assessment, case planning and decision-making in respect of an Aboriginal or Torres Strait Islander youth includes consultation with relevant Aboriginal and Torres Strait Islander people or organisations to assist the youth;
- d) that, where it is appropriate to do so, the identified family, significant person and community of an Aboriginal or Torres Strait Islander youth are participants in assessment, case planning and decision-making for the youth;
- e) that Aboriginal and Torres Strait Islander youths are provided with programs, services and supports that have regard to their age, maturity and individual cultural identity;
- f) that the assessment of appropriate accommodation in a training centre will consider the individual cultural identity of Aboriginal and Torres Strait Islander youths;
- g) that, where necessary, Aboriginal and Torres Strait Islander youths will be provided with interpreters and, where possible, translated documents;
- h) that the particular health, education and wellbeing needs of Aboriginal and Torres Strait Islander youths are considered and, where practicable, met;
- i) that officers of the Department actively participate in cultural training and demonstrate culturally respectful engagement;
- j) that the Department actively recruits and supports the retention of Aboriginal and Torres Strait Islander staff.

# Attachment 3

## Charter of Rights for Youths Detained in Detention Centres

### **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.

# Attachment 4

## KTYJC Detainee Population 2020-21

This attachment draws on summary data provided by the Department of Human Services (DHS) for the 2020-21 KTYJC detainee population

Charts relate especially to discussion in Part 2.3 (*Who we work for – Children and Young People in Custody*) of the TCV Annual Report 2020-21

### *Key data*

The number of children and young people detained at Kurlana Tapa Youth Justice Centre (KTYJC) decreased since the previous reporting year (2019-20).

Some groups continue to be seriously overrepresented.

#### **Aboriginal children and young people**

- made up 43.3 per cent of individual residents,
- 43.7 per cent of admissions; and
- 55.3 per cent of all residents on an average day.

#### **Girls and young women**

- made up 21.8 per cent of individual residents,
- 22.2 per cent of admissions; and
- 20.6 per cent of all residents on an average day.

#### **Children and young people in care,**

- made up 30.4 per cent of individual residents, but
- 39.6 per cent of admissions; and
- 34.3 per cent of all residents on an average day.

#### **The very young** (10-13 years inclusive),

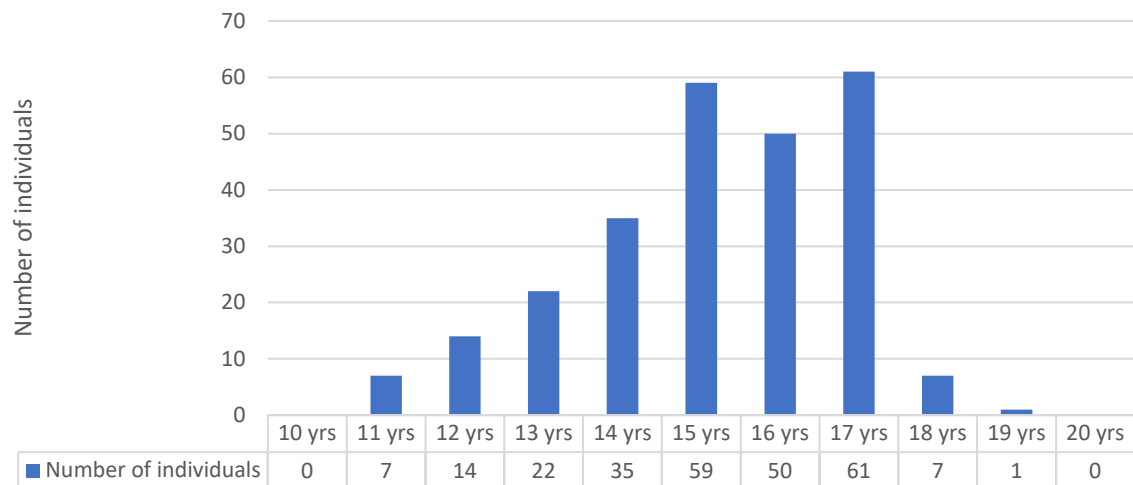
- made up 16.7 per cent of individual residents, and
- 16.5 per cent of admissions; and
- 6.1 per cent of all residents on an average day.

## Individual children and young people

### Individual children and young people detained at KTYJC, 2020-21

Number of individuals admitted	Total	% of total
Total individuals	256	100%
Number of individuals who identified as Aboriginal	111	43.3%
Number of individuals under a guardianship order at the time of their admission	78	30.4%
Number of individuals aged 10-13 years (inclusive) at the time of their admission	43	16.7%
Number of females	56	21.8%

### Number of individuals detained at KTYJC during 2020-21, by age

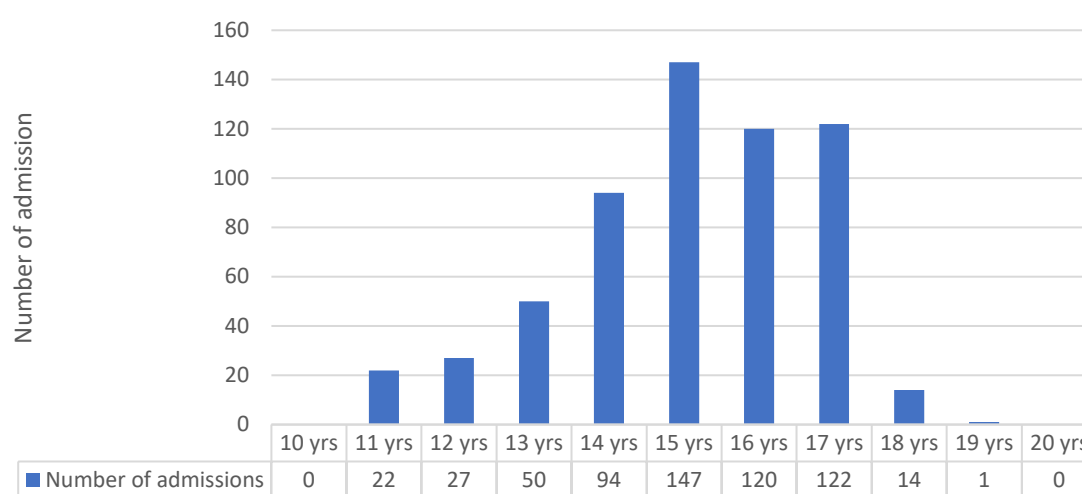


## Admissions

### Separate admissions to KTYJC, 2020-21

Separate admissions	Total	% of total
All admissions	597	100%
Number of separate admissions of residents who identified as Aboriginal	261	43.7%
Number of separate admissions of residents under a guardianship order at the time of admission	237	39.6%
Number of separate admissions of residents aged 10-13 years (inclusive) at the time of their admission	99	16.5%
Number of separate admissions of female residents	133	22.2%

Number of separate KTYJC admissions during 2020-21, by age



## Average daily population

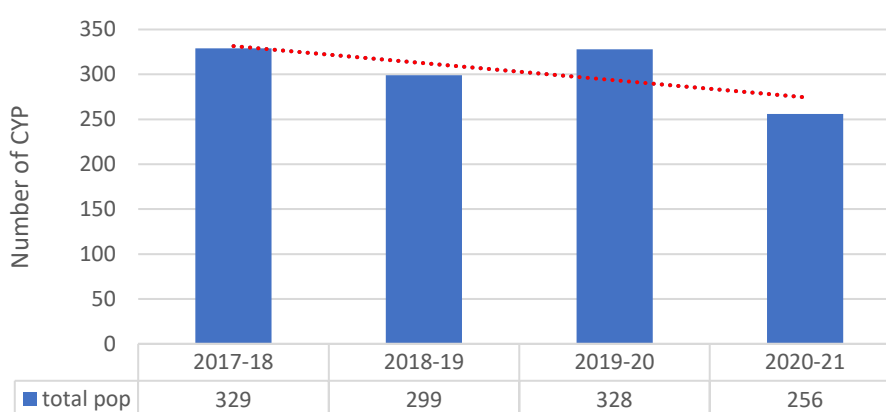
### Average daily population KTYJC, 2020-21

Average daily population	Total	% of total
All residents	26.8	100%
Average daily number of residents who identified as Aboriginal	14.5	55.3%
Average daily number of residents under a guardianship order at the time of their admission	9.0	34.3%
Average daily number of residents aged 10-13 years (inclusive) at the time of their admission	1.6	6.1%
Average daily number of female residents	5.4	20.6%

## Trends over time

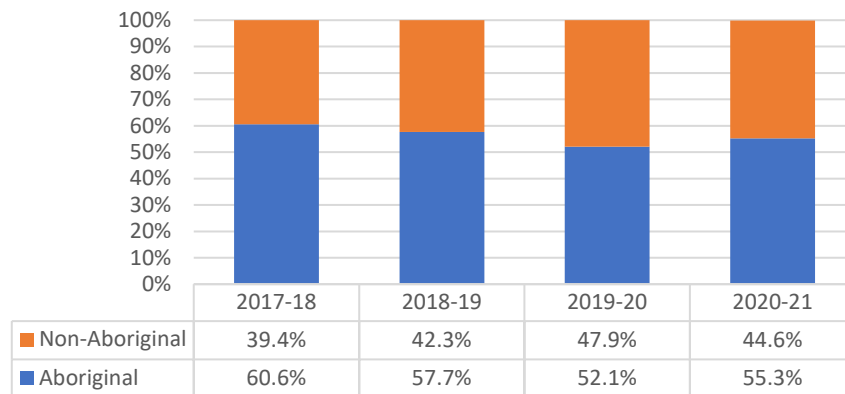
In 2020-21, there was an overall and notable decrease in the numbers of children and young people held in detention.

**Number of individual children and young people detained at Kurlana Tapa Youth Justice Centre, 2017-18 - 2020-21**



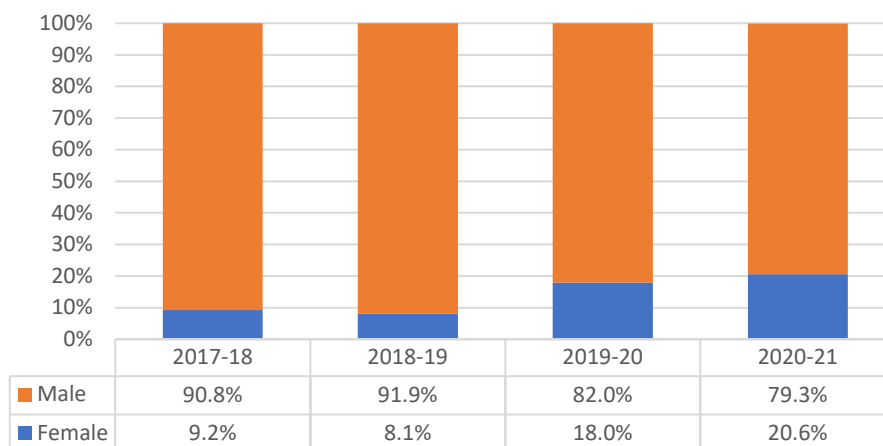
The proportion of **Aboriginal children and young people** as an average of the daily population, while decreasing over time, still needs attention consistent with commitments to the National Agreement on Closing the Gap.<sup>36</sup>

**Proportion of Average Daily Population of KTYJC by Aboriginal Status 2020-21**



The proportion of **girls and young women** detained on an average day has more than doubled since reporting began and appears to be increasing over time.

**Proportion of Average Daily Population of KTYJC by Gender 2020-21**

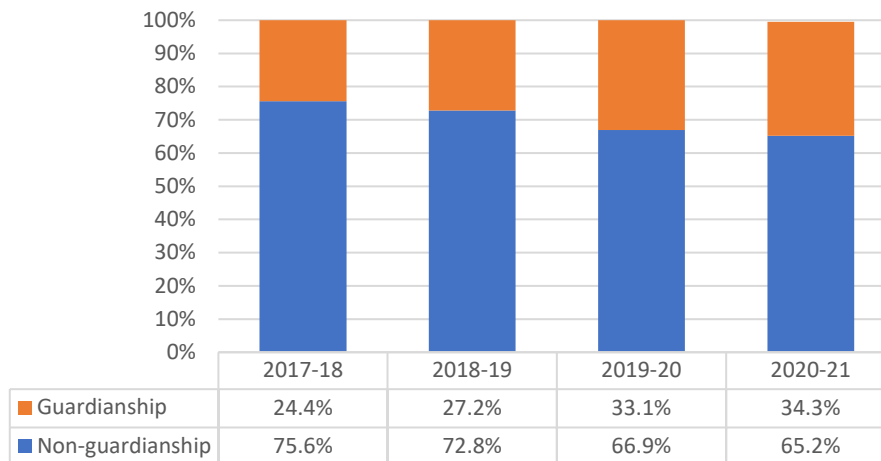


The proportion of **children and young people in care** who are detained on an average day continues to increase. 2020-21 has the highest proportion since TCV

<sup>36</sup> The National Agreement on Closing the Gap has 16 socio-economic targets areas that have an impact on life outcomes for Aboriginal people. Progress against the targets will be monitored by the Productivity Commission and help all parties to the National Agreement to understand how their efforts contribute to improvement. Outcome 11 states that Aboriginal children and young people should not be overrepresented in the criminal justice system, with 2031 target being a reduction in the rate of over-representation of Aboriginal children and young people in detention of 30 per cent.

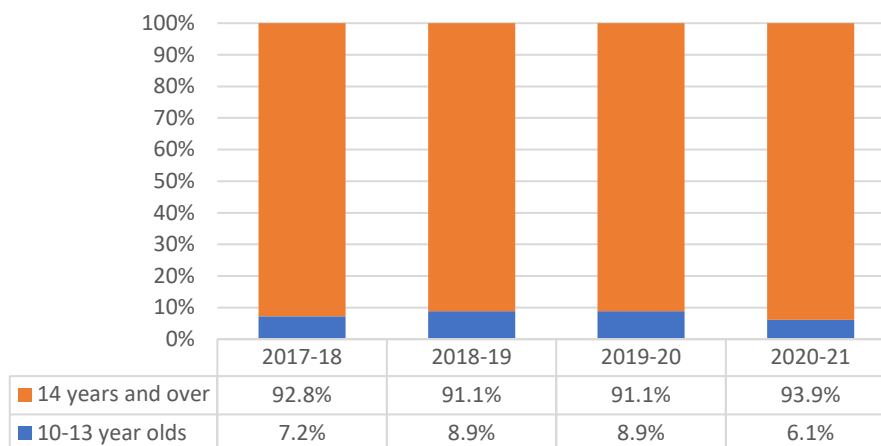
reporting began, with over one third of detainees also being under child protection care orders.

### Proportion of Average Daily Population of KTYJC by Guardianship of the Chief Executive Status 2020-21



The average daily population of **10-13-year-olds** (inclusive) has declined, with 2020-21 being the first year in which no 10-year-olds were detained since TCV reporting began. This cohort does however have a high rate of admission, suggesting that detention is not an effective mechanism to address offending behaviours.

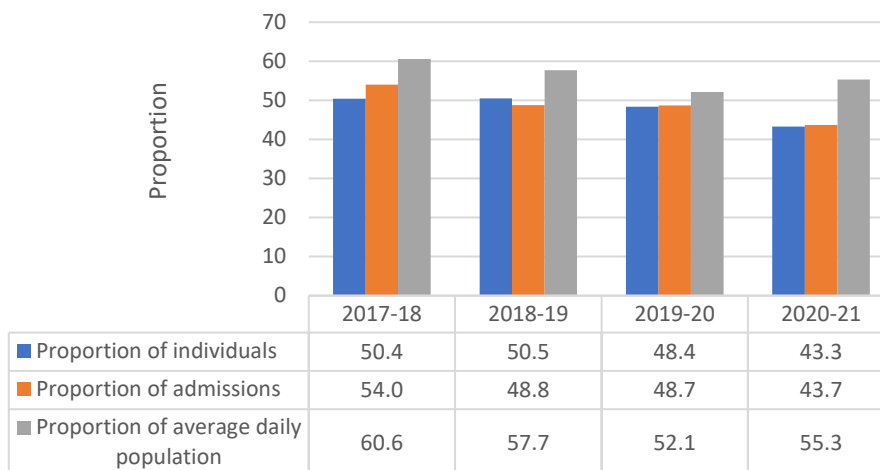
### Average Daily Population of 10-13 year olds (inclusive) at Start of Admission 2020-21



Tracking data over time allows us to follow trends for different population groups.

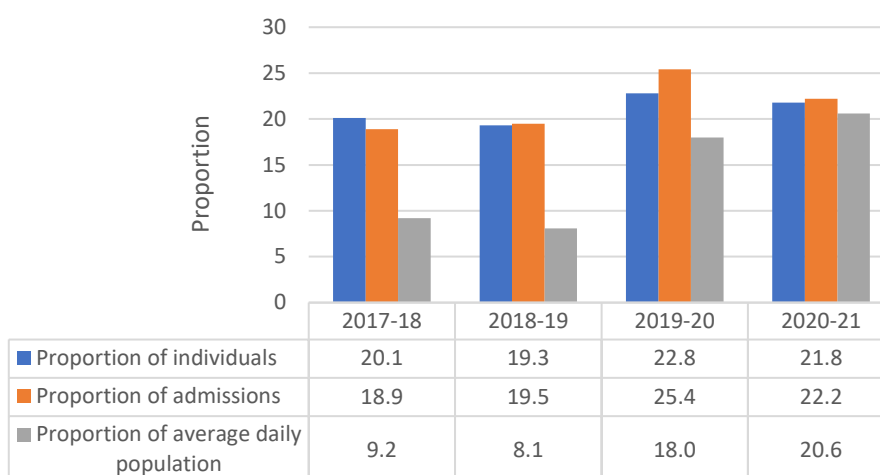
Since TCV reporting began in 2017-18, **Aboriginal children and young people** have consistently been overrepresented in the proportion of the average daily population, when compared to the proportion of individuals. This suggests that Aboriginal children and young people spend longer periods of time in detention.

**Proportion of individuals, admissions and average daily population *Aboriginal children and young people* detained at Kurlana Tapa Youth Justice Centre 2017-18 - 2020-21**



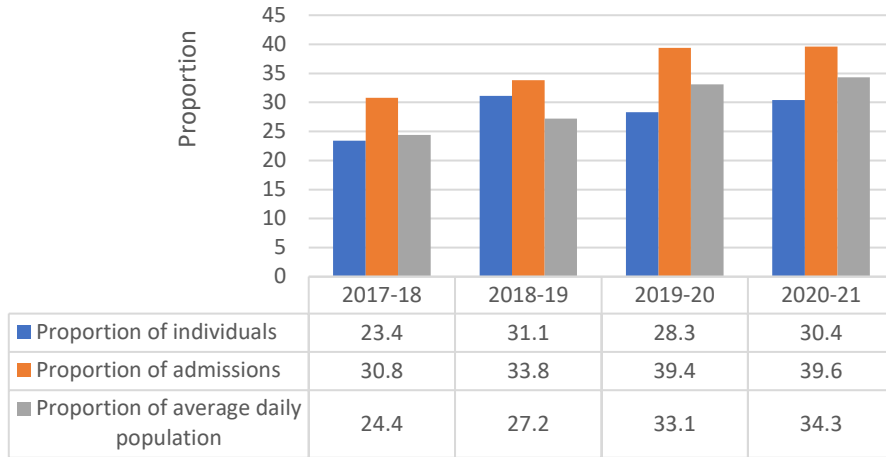
This appears to be the opposite for **girls** (many of whom are Aboriginal) who, as a proportion of the average daily population, have been consistently underrepresented when compared to their proportion of admissions and individuals. This suggests that girls are detained for shorter periods of time.

**Proportion of individuals, admissions and average daily population for *girls* detained at Kurlana Tapa Youth Justice Centre 2017-18 - 2020-21**



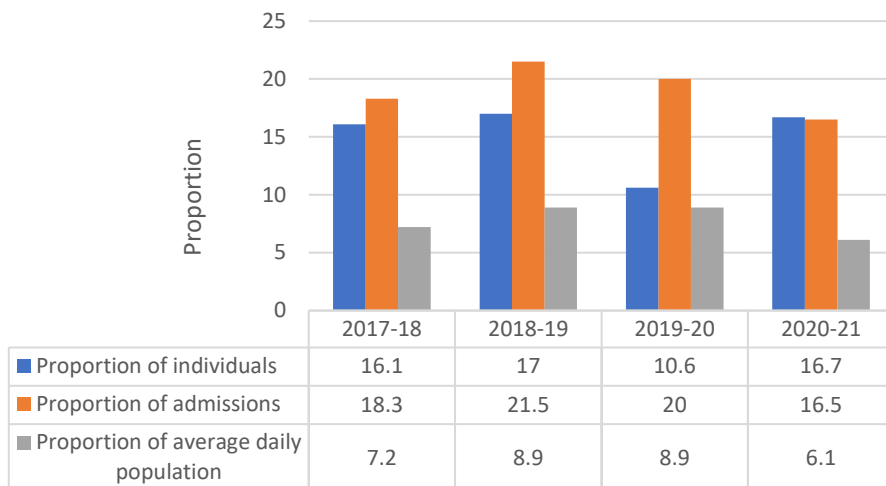
Over time, **children and young people in care** consistently have higher KTYJC admission rates and constitute a higher proportion of the average daily population. This possibly suggests that this cohort are having multiple KTYJC admissions and are being held in detention for longer.

**Proportion of individuals, admissions and average daily population for *children and young people in care* and detained at Kurlana Tapa Youth Justice Centre 2017-18 - 2020-21**



Children and young people **aged 10-13 years** (inclusive) have an elevated rate of admissions but make up a low proportion of the average daily population when compared to their proportion as individuals. This could indicate a pattern, previously identified by TCV advocates, of high rates of admissions and relatively quick release, with many returning to custody soon thereafter.

**Proportion of individuals, admissions and average daily population for *children and young people aged between 10-13 (inclusive)* detained at Kurlana Tapa Youth Justice Centre 2017-18 - 2020-21**



Further work is needed to investigate the basis for these patterns across different population groups.

