

2021/2022

ANNUAL REPORT

Training Centre Visitor

PREPARED BY Office of the Guardian for Children
and Young People

**The Office of the Guardian for Children and Young People
respectfully acknowledges and celebrates the Traditional Owners
of the lands throughout South Australia and pays its respects to
their Elders, children and young people of past, present and future
generations.**

© Office of the Guardian for Children and Young People

Suggested citation

Training Centre Visitor. Annual Report 2021-22. Office of the Guardian for Children and Young People, Adelaide 2022.

Office of the Guardian for Children and Young People
Training Centre Visitor

Level 3, 111 Gawler Place, Adelaide 5000

www.gcyp.sa.gov.au

Ph. 08 8226 8570
gcyp@gcyp.sa.gov.au

GPO Box 2281
Adelaide SA 5001
DX 115



30 September 2022

The Hon. Nat Cook MP
Minister for Human Services
GPO Box 2832
ADELAIDE SA 5001

Dear Minister

I am pleased to present to you the annual report of the Training Centre Visitor for the year ended 30 June 2022, as required under section 18(1) of the *Youth Justice Administration Act 2016*.

This report provides a summary of activities and achievements for the 2021-22 financial year.

with kind regards

A handwritten signature in black ink, appearing to read "Shona Reid", with a long, sweeping underline.

Shona Reid
Training Centre Visitor

CONTENTS

04	Notes
06	From the Training Centre Visitor
07	Who are We & What we Do
09	Snapshot: Children & Young People in Detention
11	Building Oversight
14	What We Did in 2021-2022
23	Strategic Matters & Issues
36	Changing Statutory Landscape
40	The Training Centre Visitor Unit
42	Attachment 1: Implementation of Pilot Inspection Recommendations
47	Attachment 2: Aboriginal and Torres Strait Islander Youth Justice Principle
48	Attachment 3: Charter of Rights for Youths Detained in Detention Centres
49	Attachment 4: KTYJC Detainee Population 2021-22
55	Attachment 5: Values
56	Attachment 6: Recommendations, SADI Report 2022

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.

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 Kurlana Tapa are referred to interchangeably as residents or detainees.

Referencing

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

Data

Much of the data referred to in this report has been collated and analysed by TCVU staff. It is presented in good faith, acknowledging there may be unintentional discrepancies. We understand there is not DHS-collated data on these topics.

Artwork

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

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 2021-2022 Law Interns, Kellie Elmes and Jennifer Novak.

Explanatory Charts

Attachment 4 to this report provides charts and commentary about:

- Individual children and young people detained at KTYJC, 2021-22
- Number of individuals detained at KTYJC during 2021-22, by age
- Separate admissions to KTYJC, 2021-22
- Number of separate KTYJC admissions during 2021-22, by age
- Average daily population KTYJC, 2021-22
- Number of individual children and young people detained at KTYJC, 2017-18 - 2021-22
- Proportion of Average Daily Population of KTYJC by Aboriginal Status 2021-22
- Proportion of Average Daily Population of KTYJC by Gender 2021-22
- Proportion of Average Daily Population of KTYJC by Guardianship of the Chief Executive Status 2021-22
- Average Daily Population of 10-13 year olds (inclusive) at Start of Admission 2021-22
- Proportion of individuals, admissions and average daily population for Aboriginal children and young people detained at KTYJC 2017-18 - 2021-22
- Proportion of individuals, admissions and average daily population for girls detained at KTYJC 2017-18 - 2021-22
- Proportion of individuals, admissions and average daily population for children and young people in care and detained at KTYJC 2017-18 - 2021-22
- Proportion of individuals, admissions and average daily population for children and young people aged between 10-13 (inclusive) detained at KTYJC 2017-18 - 2021-22.

Abbreviations & Acronyms

Aboriginal and Torres Strait Islander Youth Justice Principle	This Principle is established in the Act and described in Part 2 of the Youth Justice Administration Regulations 2016. (see Attachment 2 to this report)
Act	Unless stated otherwise, this refers to the Youth Justice Administration Act 2016 (SA)
CAMHS	Child and Adolescent Mental Health Service
Charter / Youth Justice Charter	The Charter of Rights for Youths Detained in Detention Centres (provided as Attachment 3 to this report)
Children and young people	Refers to anyone aged below 18, the age of majority in South Australia
Children in care (or under guardianship)	Refers to those placed under guardianship orders pursuant to the Children and Young People (Safety) Act 2017
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	Shona Reid holds the separate statutory appointment of Guardian for Children and Young People. The TCVU operates from the Office of the Guardian.
KTYJC or Kurlana Tapa	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)
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 children and young people in both out-of-home-care and youth detention.
TCVU	The Training Centre Visitor Unit supports Training Centre Visitor 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	Young People Connected, Communities Protected 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).

FROM THE TRAINING CENTRE VISITOR

In coming into this role as the newly appointed Training Centre Visitor, I have had the privilege to be entrusted to oversee the rights and conditions of those who are in South Australian's only 'youth detention centre'.

In my first few weeks I made it my business to attend the Kurlana Tapa Youth Justice Centre and spend time with young people to hear their hopes, worries and plans for not only their time in Kurlana Tapa, but also their future and what they hope to do and be.

There are often many challenges for children and young people in such a setting. Dealing with the reasons and consequences that have led them to being detained in such a place, thinking about what is happening at home, dealing with health or disability-related needs or even trying to cope with just transitioning to a teenager or adult.

No matter the circumstances of their stay and the situations they have found themselves in, time in Kurlana Tapa can be one that assists in getting back onto a path that works best for each individual.

The responsibility of staff, workers and myself as the Training Centre Visitor is to ensure that on this journey young people are able to manage their stay in a safe, humane and dignified manner. It is our responsibility as a collective to ensure young detainees receive the 'care, treatment and control' that best serves their rehabilitation and re-joining their community.

As I am reporting on the year that 'was' 2021-2022 I would like to pay my respects to Penny Wright, who was responsible for this function prior to August 2022. Thankyou Penny for your work and commitment to ensuring the rights of children and young people were always front and centre in all conversations, decisions and discussions.

Shona Reid
Training Centre Visitor



I hope to be able to champion some of your key causes, such as the medical and mental health needs of children and young people in Kurlana Tapa; ensuring enough staff are working with the kids so they can attend learning and skill development opportunities in their time at the Centre; improving nutrition and access to cultural supports which are so important to belonging and personal development. I also acknowledge the work of the small but mighty Training Centre Visitor Unit within my office.

I fully acknowledge that operating and managing a service and care model in a youth detention centre is very complex and challenging. It is because of this that positions such as mine play a vital role in holding service providers accountable, and that we are able to ensure the rights of children and young people who are detained are proactively upheld and utilised in their rehabilitative care.

I look forward to working with the many people and services that look to support children and young people in these settings. Most importantly I look forward to hearing and listening to those at Kurlana Tapa.

WHO ARE WE & WHAT WE DO

The Office of the Guardian for Children and Young People hosts the activities and staff associated with three roles:

1. Guardian for Children and Young People
2. Training Centre Visitor
3. Youth Treatment Order Visitor

All three roles were held by Penny Wright until end of July 2022.

This Annual Report specifically details the activities Training Centre Visitor.

The TCV & 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 sentenced or remanded to detention in a youth 'training centre'. The only 'youth training centre' in South Australia is Kurlana Tapa Youth Training Centre (KTYTC). The TCV reports to parliament through the Minister for Human Services.

Shona Reid commenced as TCV on 1 August 2022, with her predecessor, Penny Wright, being TCV for the period covered by this report.

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

s12 – 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.

Our work was bolstered by the Senior Advocate implementing the SADI Project through to the end of December 2021 and a Project Officer appointed in May to implement an establishment Project for the newly assigned Youth Treatment Orders Visitor Scheme.

The Unit is located within the Office for the Guardian for Children and Young People (Guardian), a position also held by Shona Reid pursuant to the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*.

Functions

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

- to **visit** and **inspect** Kurlana Tapa
- to **promote** the best interests of detainees and act as their **advocate**, particularly with respect 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, and
- to **inquire** into and investigate matters referred by the Minister.

In carrying out her duties, the TCV must encourage detainees to express their own views and give proper weight to those views and pay particular attention to the needs and circumstances of children and young people who are under guardianship (i.e are '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^[1] relating to the detention of children and young people where possible.

Charter of 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). Detainees under guardianship orders (i.e. are 'in care') also have rights under the Charter of Rights for Children and Young People in Care.

The Act further stipulates that **to the extent practicable international and national requirements 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
- the **Bangkok Rules** for the treatment of women prisoners, including girls
- the **Nelson Mandela Rules** for the treatment of prisoners, and
- the **Riyadh Guidelines** for the prevention of juvenile delinquency.

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".

Working for change

Across all the work of this office, we champion the rights and best interests of children and young people in care and detention, ensuring their voices are heard and they are empowered to engage with, challenge and influence change in the systems that affect their lives.

We are committed to influencing change for the most vulnerable children and young people. Our role is to find ways to connect and hear from children and young people directly. To ask questions of service providers and their staff about how these services and decisions benefit these children and young people.

Our work is aimed at advocating for the little wins, but also challenging old ways of doing things that no longer work. To contribute positively to systemic change so we make a difference for all children and young people in care or detention.

[1] For example, the Standards for Juvenile Custodial Facilities developed by the Australasian Youth Justice Administrators Group (2009, 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.

[2] s.3(d) of the Act, Objects and guiding principles. 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).

CHILDREN & YOUNG PEOPLE IN DETENTION

In 2021-22, **292** individual children and young people were admitted to Kurlana Tapa across **759** separate admissions, the highest number of admissions since TCV reporting began in 2017-2018.

Individual children and young people admitted to Kurlana Tapa, 2021-22

Number of individuals admitted	Total	% of total
Total individuals	292	100%
Identified as Aboriginal and or Torres Strait Islander	138	47.3%
Identified as females	70	24.0%
Under a guardianship order at the time of their admission	83	28.4%
Aged 10 to 13 (inclusive)	52	17.8%

Compared to the previous reporting year, the 2021-22 figures show that:

- there was an **increase** of 14.1% (36 individuals) in children and young people admitted to Kurlana Tapa
- increase** in the number of **admissions** (some children and young people returned multiple times) by 27.1% (162 admissions)
- the number of **children and young people in care** detained **rose** by 6.4% (by five individuals). However, the number of children and young people in care detained as a **proportion** of the total KTYJC population **fell** by 2.0% (from 30.4 to 28.4%) from the previous reporting period.
- there was a 24.3% **increase** (27 individuals) in the number of **Aboriginal children and young people** detained. When we look at all children and young people detained, we saw an increase (2.9%) of Aboriginal children and young people represented in the detainee population group from 43.4 to 47.3%

- there was a 25.0% **increase** (14 individuals) in the number of **female detainees**, a 2.1% increase in the proportion of female children and young people detained (from 21.9 to 24.0)
- more** children aged between **10 and 13** years were detained, an **increase** of 20.9% increase (9 individuals)
- the average number of **admissions** per child or young person **rose** from 2.3 to 2.6.

Though DHS provided no data about detainees with disabilities, the DHS Youth Justice Disability Screening Project (2020) informs us that some nine out of every 10 children and young people assessed at KTYJC had a disability or disability related need.

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 overrepresented groups.

Particular Attention

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.

s.3(3) of the Act—
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

On an average day in 2021-22, Aboriginal children and young people comprised:

- 47.3% of individual detainees,
- 47.3% of admissions, and
- 50.6% of all residents.

[3] 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.

Both the proportion of individual Aboriginal children and young people detained, and the proportion of admissions for Aboriginal children and young people increased in 2021-22. This is against the trend of recent years.

There was a significant decrease in the proportion of Aboriginal children and young people as an average of the daily population compared to the previous year (from 55.4% to 50.6%). However, Aboriginal children and young people remained overrepresented in the proportion of the average daily population when compared to the proportion of individuals.

This suggests that Aboriginal children and young people continue, on average, to spend longer periods of time on remand or in detention than non-Aboriginal children and young people.

Female Detainees

In 2021-22, girls and young women accounted for 24.0% of individual detainees, 24.9% of admissions, and 12.4% of all residents on an average day.

Females were markedly underrepresented as a proportion of the average daily population, when compared to the number of individuals admitted. This suggests that they are detained for shorter periods of time.

The average number of admissions for girls and young women (2.7) was slightly above the general population (2.6), but not by a statistically significant amount.

Our experience suggests that most of the female population we meet through the TCVU Visiting Program are Aboriginal and/or in the care of the DCP Chief Executive.

Very young detainees (10-13 inclusive)

In 2021-22, very young detainees (those aged from 10-13 years, inclusive), made up 17.8% of all individuals detainees, 23.6% of all admissions, and 4.6% of all residents on an average day. The average number of admissions per individual in this age range was 3.4. This is a significant increase from last year's average rate of 2.3 admissions.

Bail practices may have an impact on this cohort. In talking with very young offenders, we come to understand that they may have more limited comprehension of the nature and implications of their alleged offending due to their stage of child and adolescent development, and experience unique challenges navigating bail processes and conditions. This includes understanding the conditions imposed, the consequences of breaching these conditions, as well as their ability to comply with what may be onerous, unrealistic or arbitrary conditions.^[4]

Very young detainees had a significantly higher average rate of admissions for the year (3.4), in comparison to the general KTYJC population (2.3). The disruption to their lives from the increased number of admissions may have flow-on effects for their education and capacity to form or maintain trusting relationships in their homes and communities.

Children & Young People in care & detention

In October 2021 the TCV report, Six Month Snapshot of the *South Australian Dual Involved Project*^[5] was tabled, in Parliament with the *Final Report*^[6] provided to the Ministers for Child Protection and Human Services in June 2022. Both highlighted the circumstances of 'dual involved' children and young people who are in care and in youth detention. Their circumstances are discussed more fully in this report..

In 2021-22, children and young people in care accounted for 28.4% of all individual Kurlana Tapa detainees, 38.1% of all admissions, and 33.2% of all residents on an average day. These proportions have decreased since the previous year (by 2.0, 1.5 and 1.1%, respectively).

The rate of multiple admissions for children and young people in care rose from an average of 3.0 admissions in 2020-21 to 3.5 in 2021-22. This is significantly higher than the overall average rate of 2.6 admissions per individual detained.

[4] See, e.g. Australian Institute of Criminology, *Bail and remand for young people in Australia: A national research project* (2013), 75.

[5] Six Month Snapshot of the South Australian Dual Involved Project: Children and young people in South Australia's child protection and youth justice systems <OGCYP-South-Australian-Dual-Involved-Project-Interim-Report-September-2021.pdf>.

[6] Final Report of the South Australian Dual Involved Project: Children and young people in South Australia's child protection and youth justice systems <OGCYP-Final-Report-of-the-South-Australian-Dual-Involved-Project.pdf>.

BUILDING OVERSIGHT

“Being detained does not mean we relinquish or void our responsibilities for ensuring that human and child rights architecture is upheld, maintained and proactively enacted”

Established & Integrated

The Training Centre Visitor (TCV) Program commenced with the initial appointment of staff in November 2017. At its inception a broad program design was complemented by purposeful relationship building and formal consultation with detained children and young people in May 2018. It was their views that informed the design and implementation of a pilot Visiting Program^[7] and other roles.

The Kurlana Tapa Youth Justice Centre (KTYJC or Kurlana Tapa) Pilot Inspection Report (June 2020)^[8] marked the conclusion of the establishment phase of the TCV Program.

Among other things, it affirmed the efficacy of our integrated model for promoting detainee best interests through the TCV's three main ongoing functions: visiting, advocacy and inspection.

Our approaches in all these areas were further refined in 2021-22.

Hearing and addressing detainee concerns

Children and young people in Kurlana Tapa can access the TCV and the TCV Unit in a number of ways:

- via telephone access
- written correspondence or
- in a face to face visit (on the scheduled routine or at specific request).

Children and young people raise diverse concerns during our visits or through confidential phone calls. Important matters raised in 2021-22 are described later in this report.

As in previous years, some issues affected detainees generally (e.g access to health care or education; the impact of campus wide lockdowns; staff shortages; complaint processes; meals; and bullying) while others had a particular impact on groups within the overall population (e.g related to ethnicity or culture; girls and young women; arrangements for young people with disabilities; gender identification; and mental health needs).

Particular Attention

The TCV must pay particular attention to the needs of detainees who are under guardianship ('in care'), or are Aboriginal, or who have a physical, psychological or intellectual disability.

Data is collected as best it can be on these particular areas, with further improvements scheduled for 2022-2023. In addition, specific access to specialist advice has been essential for the TCV Unit in being able to provide appropriate advocacy for specific needs.

Planning undertaken this past financial year will enable the introduction in 2022-23 of enhanced Aboriginal and Disability consultant leadership and expert advice roles across OGCYP mandates.

COVID 19

As with most agencies and organisations COVID 19, played big part on children and young peoples experiences over the last year. It also impacted our ability to undertake visits at KTYJC. We maintained regular visiting, in a modified form, ensuring ongoing direct access to our support.

[7] <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2021/05/Report-of-Training-Centre-Visitors-2018-Pilot-Visiting-Program-Review-of-Records.pdf>

[8] <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2021/04/TCVU-inspection-report-2020-web.pdf>

We again acknowledge the commitment of DHS Youth Justice and Kurlana Tapa management and staff to facilitating our continued face to face contact with young detainees.

Memorandum of Administrative Agreement (MoAA)

In building and formalising our relationship with DHS we developed a MoAA between the TCV and Chief Executive of the Department for Human Services (DHS) was finalised this financial year.

This arrangement identifies how both parties will exercise their responsibilities with respect to the other and establishes protocols for the request, provision, and use of information and how the TCV will be notified about certain matters.

Activities and achievements

Both our individual advocacy and systemic work are influenced by detainee views.

In 2021-22 we undertook strategic work in areas discussed in later in this report, with a key work being the South Australian Dual Involved (SADI) Project. Interim and final SADI reports were both provided for tabling in Parliament this financial year (September 2021 and June 2022).

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 enhanced TCVU data capture and analysis processes to improve our capacity to monitor and report on emerging issues, Kurlana Tapa's compliance with statutory obligations and key indicators of detainee health, safety and wellbeing.

We again monitored implementation of recommendations from the Pilot Inspection Report, all ten of which were accepted by the government in 2020.

We continued to anticipate the TCV's 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), with the formal commencement date now pushed out to January 2023.

The TCV was appointed as Visitor for the new Youth Treatment Order (YTO) Scheme^[9] that commenced in November 2021. Part 5.2 below describes the twelve-month Establishment Project, attached to the TCVU, for that new mandate.

The TCV continues to advocate for an increase in the minimum age of criminal responsibility (MACR) in concert with Children's Commissioners and Guardians locally and from other jurisdictions.

Positive change at Kurlana Tapa

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 the systems we monitor. This applies to most staff, employed by DHS or other agencies, who work directly with, or to support, children and young people in detention.

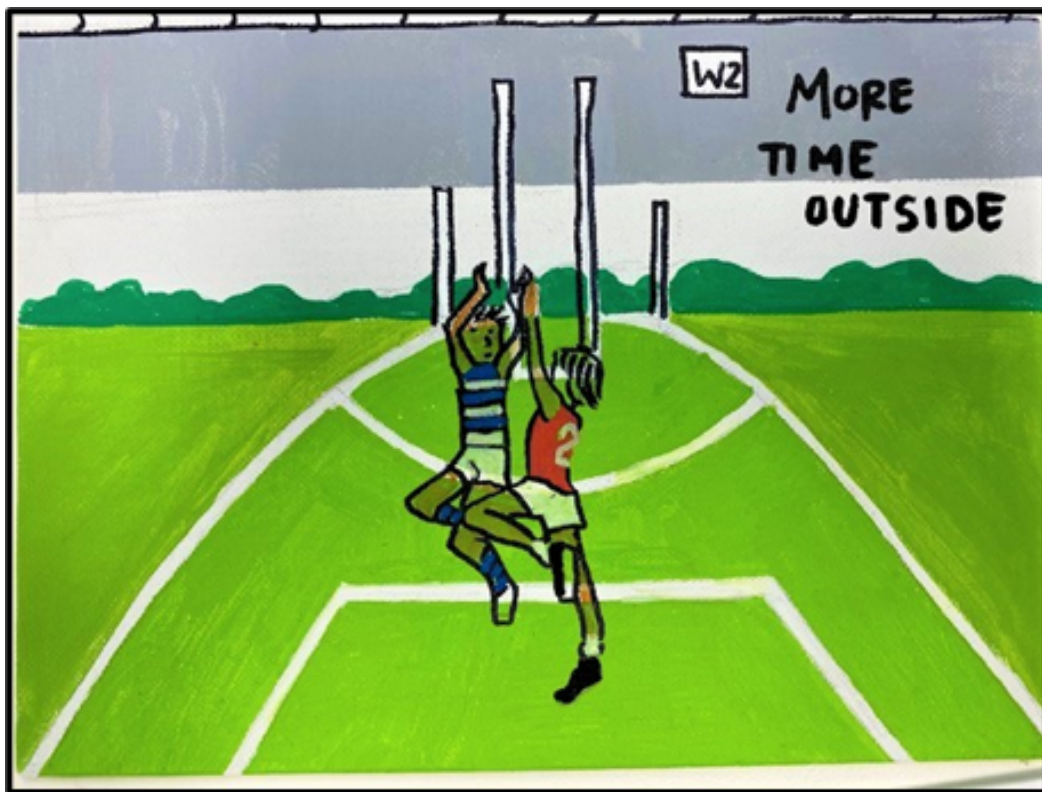
We acknowledge DHS efforts to improve service accountability and delivery, including with respect to matters raised in TCV reports. In 2021-22 we noted the following –

- an ongoing focus on recruiting staff from diverse backgrounds, including through outreach to the Aboriginal community (but noting retention issues, including in relation to experienced staff)
- continued efforts to improve digital reporting on operational activities
- further improvements to case management and associated practices
- development and completion of a reintegration plan for a long-term detainee, the first of its kind since the inception of TCVU
- introduction of the Enhanced Support Team (allied health clinical team)
- progress with the Kurlana Tapa newbuild development
- 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 Youth Justice Assessment and Intervention Services (YJAIS) and the Sensory Modulation Framework project
- a respectful and sensitive approach by KTYJC management and staff to complex issues affecting individual detainees, such as gender identification

[9] A separate Annual Report on the TCV's new YTO Visitor role has been provided to Parliament.

- the ongoing cessation of strip-searching of children and young people due to the use of appropriate technology
- continued support for TCVU visits, although these were seriously impacted by Covid protocols and major staffing problems (this active support extended to the SADI interview process)
- responsiveness to monitoring by the TCV and requests for information in relation to some acutely distressed young people, and
- some well formed practice and patience shown by operational staff when managing detainees with increasingly complex and challenging behaviours.

It is pleasing to note that this is the second Annual Report in which we can record that no 10-year-olds were detained at Kurlana Tapa.



WHAT WE DID IN 2021-2022

Any mandated treatment program or scheme should be approached with careful and considered thought for its ongoing impact on the safety and wellbeing of those individuals whose rights and liberties are restricted.

Promoting Best Interest

Everyone involved in administration of the Act must consider and promote the wellbeing and best interests of detained children and young people.^[10]

This resonates with broader safeguarding and welfare obligations expressed in the complementary *Children and Young People Safety Act, 2017* that prioritise “**early intervention in matters where children and young people may be at risk**”.^[11]

To understand and respond to systemic issues that impact upon current detainees or those who are likely to enter (or re-enter) custody, the TCV must engage with broader youth justice and related sectors.

We promote the best interests of the detainee –

- in our daily work
- through articles and reports published on the OGCYP website and blog
- through liaison with government and non-government agencies, with journalists and community leaders
- by addressing seminars, or contributing to workshops and training, and by
- by maintaining constructive and cooperative relationships with DHS Youth Justice, particularly Kurlana Tapa staff and management.

A successful process undertaken by Kurlana Tapa to support a long-term detainee to reintegrate with the community should be noted. That this occurred *despite* the Kurlana Tapa's generally challenging operational conditions is testament to the young person themselves and the management/staff who persisted to make it work.

Visit

The Visiting Program

The TCV must visit Kurlana Tapa 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.

Visiting is a core TCV function – it gives insight into day-to-day KTYJC operations and the wellbeing of children and young people. We aim to ‘sight’ every detainee during each visit, and give them the opportunity to speak with us, privately if requested. We –

- observe children and young people’s interactions with peers and staff
- speak to young people, to gauge their wellbeing and identify any advocacy matters
- monitor maintenance repairs, ambiance, and the quality of environments, and
- follow up existing individual or collective matters and seek specific feedback from young people about issues that have arisen.

Opportunities to enhance communication between the TCVU and Kurlana Tapa also occur in meetings and debriefings with various managers and staff, as well as at a more formal level through DHS executive meetings.

Since its inception, our visiting team has been comprised of at least one female and one male visitor and at least one Aboriginal staff member.

The children and young people usually are content to engage with whichever visitor approaches them, but at times they do make a choice.

[10] Section 3(2)(a), Youth Justice Administration Act 2016

[11] See s.5 and s.9, Children and Young People (Safety) Act 2017

In 2021-22 this is important in the context of a detainee population where Aboriginal children and young people comprised 53 % of our total engagements.

Visits are led by the children and young people, with Advocates open to whatever they want to discuss. However, time out of rooms is valuable to incarcerated young people so we need to balance between building rapport and providing young people with an opportunity to raise their concerns, and encroaching on leisure time, particularly as modified routines increase.

A 'modified routine' occurs when some or all aspects of daily planned routines are varied or cancelled on a given day. Modified routines also may occur for reasons outside KTYJ management's control, including for health policy reasons or because external service providers are unable to facilitate an aspect of the routine (for example, education or programs). The general impact of modified routines on children and young people is they spend more time secured in rooms or inside their unit, impacting on socialisation and recreational opportunities and engage less with rehabilitative programs and support services.

Covid Protocols had a major impact on our visiting program this financial year, with restrictions placed on multiple unit visits, compliance with varied PPE requirements, from full PPE to mask only, and a RAT testing regime. We supported and accommodated reasonable measures to ensure detainee health and safety, adjusting our visiting program accordingly.

Historically, visits happened on a single day with all units attended by two visitors to maximise potential engagement. This also allowed young people a choice about who to engage with, an important consideration given the overall lack of autonomy over their lives and routines. The Covid protocols meant that we needed multiple labour-intensive attendances to access all units, usually as single advocates to ensure coverage.

Our biggest concern, however, was the inability to visit effectively due to ongoing modified routines and the impact of serious staff shortages, the latter often leading to 'rolling unlocks' where only some units were allowed up at any given time. This stymied movements through units, and limited potential conversations. On multiple occasions, advocates would wait for up to half an hour for children and young people to be released from their rooms so that a visit could commence. Alternatively, if there was no known time for children and young people to be released, visits were conducted by calling through locked bedroom doors. Apart from anything else, this undermined their core right to privacy.

Our practice of contacting Kurlana Tapa in advance of visits to confirm whether staffing would allow children and young people outside of their rooms could not guarantee access because of ongoing staffing issues. Even where children and young people were out of their rooms, the impact of frequent modified routines and the limited time out of rooms meant that we respected their need to socialise, play computer games or eat snacks rather than respond to our engagement agenda.

Despite these complications, our presence was extremely important given the cancellation of programs and activities and the impact of some external service provider Covid protocols preventing in-person visits. In practice, TCVU visitors provided some of the only regular opportunities the children and young people had for face-to-face contact with non-Kurlana Tapa staff.

Through to the end of December 2021, the SADI Senior Advocate worked within this overall context to engage with dual involved children and young people, a role that wound down considerably once funding for that specialist work ceased.

With an ongoing commitment to ensuring that TCVU visitors themselves are 'diverse' (minimally through a guarantee that children and young people can access female and Aboriginal visitors), we have given further thought to how best to schedule and conduct visits. This extends to consideration of measures to improve our monitoring, both of conditions in Kurlana Tapa (in a sense, how elements of an 'inspection' role can be incorporated in scheduled visits), and in relation to delivery of core responsibilities such as health and education that primarily are provided by non-DHS agencies.

Conversations with detainees contributed to plans to develop a TCVU quarterly newsletter, the first edition of which will be released later in 2022.

The Visiting Program

The visiting program drew attention to important matters in 2021-22, these will be explored later in this report, however, in summary these included:

- 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, and in 2021-22 children and young people from African cultural backgrounds
- issues specific to the girls and young women
- guaranteed access to responsive medical care (over 24 hours, every day)
- inadequate environmental, treatment and other appropriate options for children and young people with major mental health and or developmental issues
- cultural responsiveness
- the care, treatment, and control of young people with disabilities
- the ongoing operational impact of staff shortages and rostering difficulties and the impact of lockdowns
- resident feedback and complaint processes
- the impact of Covid restrictions and protocols, including the need to provide appropriate technology to enable personal visits and schooling in Covid lockdown conditions
- complaints about food (quality and quantity).

- addressing inconsistent treatment by staff, and
- bullying/assault by fellow residents.

We regularly seek input from young people, either through structured processes or via constant engagement in our visiting and advocacy work.

The children and young people with whom we work consistently value some key things about how we engage with them, including –

- that we listen to and believe them
- that we visit frequently, noting their concern that they might forget issues before the next visit
- the importance of building trust and rapport with individual Advocates, with whom they are more likely to be comfortable sharing personal information; it is not uncommon for individual detainees to indicate that a trusted TCVU Advocate became a central, and in some cases only, source of non-institutional support during their incarceration.
- TCVU support should recognise the need for timely results, regardless of the outcome, and that they should be kept informed throughout an advocacy process
- we also should have an acute observational role during visits: 'Don't just talk to us', sometimes just be in the unit space and watch the interactions.

Seeking and Hearing

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 was designed to reflect detainee views expressed during an initial consultation in May 2018 and a repeat of this process in December 2020 and May 2021. As with all our interactions, participation was confidential and voluntary. Our Advocates usually conduct such semi-structured interviews based on existing relationships and rapport. In these TCV program design consultations we focussed on the young people's preferences about how best to implement the TCV's advocacy and visiting functions. An overview of the views expressed can be found in last year's Annual Report^[12] with popular themes nominated for regular TCVU oversight being –

- food and nutrition
- promoting potential co-education opportunities

A Youth Week Competition was held in conjunction with the visiting program inviting children and young people to participate in an art competition, some examples of their art being included in this annual report.



[12] <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2021/11/2020-2021-GCYP-Annual-Report-Final-Amended.pdf>

Inspect

The Function

While required to inspect the 'training centre', the frequency, focus and method are left for the TCV to determine. Our pilot inspection was completed and reported to Parliament in June 2020. This report marked the end of the two-year establishment phase of the TCV Program.

Formal Inspections generally consider all aspects of the lives of detainees and the systems that determine the quality of their care, treatment, and control. The children and young people 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 (i.e. 'in care') or who have disabilities. As with the Pilot Inspection, an inspection will also consider the situation of groups such as girls and 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.

Importantly, the Integrated functional model adopted for the TCV Program developed our Reviews of Records as a quarterly activity during which we analysed core Kurlana Tapa detainee focussed and management documentation on a rolling basis. This regular scrutiny is proximate in time to events and existing detention conditions, enabling potential TCVU intervention while informing ongoing monitoring. Pragmatically, it also allows cumulative consolidation of key information/data that otherwise would have to be scrutinised during a formal inspection.

Our pilot inspection model was informed by the Act and associated guidance such as the Aboriginal and Torres Strait Islander Youth Justice Principle,^[13] several international covenants (see examples in Part 2.2 above), and the Charter of Rights. We explored policy and practice in analogous jurisdictions in Australia and elsewhere, reports from recent inquiries and Royal Commissions and good practice guidelines issued by the Australasian Youth Justice Administrators Group and others.

No inspection occurred in 2021-22, primarily due to ongoing uncertainty about the commencement and impact of OPCAT which was expected to commence in January 2022 although that date subsequently was pushed back to January 2023.

Review 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 while monitoring core management and operational processes that impact upon children and young people. Matters which may not otherwise have come to the TCV's attention are identified, including those relating to specific incidents recorded by detainees and staff in incident comment sheets.

The TCVU reviewed and updated its Review of Records data collation procedures in 2021-22 to improve data tracking and analysis over time. Through this work, we compiled data from three Reviews of Records in 2021-22 to clarify developing trends.

We made 32 recommendations in response issues identified in the Reviews of Records for Terms 3 and 4 2021 that emphasised –

- young people as the focus of complaints, incident, and other processes
- the need for recorded referrals to health and cultural support following use of restraints or safe rooms
- more thorough and consistent application of existing Kurlana Tapa policies, and
- prioritising data collation on topics including –
 - the intellectual, physical and psychological abilities/disabilities that impact on the lives of detained children and young people
 - management of detainee movement to the Youth Education Centre to be able to attend school as required
 - the ability to attend on and offsite health appointments
 - the critical relationship between (under)staffing and imposition of modified routines, and
 - the associated impact of prolonged isolation on children and young people.

[13] In Part 2 of the Youth Justice Administration Regulations 2016 (see Attachment 2).

Program Sessions: Scheduled versus Cancellation from 2021-22 Reviews of Records July to March 2022

TCVU Reviews of Records consistently seek information about access to and participation in programs and activities, seeing these as key processes through which Kurlana Tapa's rehabilitation responsibilities can partly be met.

Use of new data collection and analysis approaches allowed us to establish that for the financial year through to March the number of program sessions was low, as was participation. The below table shows these figures with respect to new programs and activities introduced in 2021-22

Program/ Activity	Jul - Dec 2021				Jan - Mar 2022			
	Scheduled	Cancelled	Delivered	% of scheduled programs delivered	Scheduled	Cancelled	Delivered	% of scheduled programs delivered
CALD wellbeing program	10	4	6	60.0%	8	6	2	25.0%
Sekseed	19	5	14	73.7%	8	8	0	0.0%
Teen Mental Health First Aid	4	0	4	100.0%	2	2	0	0.0%
NRL OzTag	19	9	10	52.6%	0	N/A	0	N/A
Balance Choice	18	6	12	66.7%	0	N/A	0	N/A
HYPAC Cooking	16	4	12	75.0%	0	N/A	0	N/A
The Beauty Heartist	7	6	1	14.3%	0	N/A	0	N/A
Photovoice*	Unknown	Unknown	Unknown	Unknown	0	N/A	0	N/A
Multicultural Communities Council SA	Not in information provided to TCVU							
Red Cross - Save a Mate	0	0	0	N/A	0	N/A	0	N/A
CAMHS Cultural Catch-Up	28	19	11	39.3%	16	16	0	0.0%

* This activity appears to have been a research project with 11 participants, held through Sep - Oct 2021, to inform the Sensory Modulation Framework

* This table does not include existing programs and activities which continued in 2021-2022 from the previous financial year

Review of Records: Recommendation Areas

Focus of Recommendations made to DHS/Kurlana Tapa arising from Terms 3 and 4, 2021 Reviews of Records

	Focus	% of Recs
1	Children and young people's health (mental and physical)	19%
2	Complaints Processes	19%
3	Data Collation	13%
4	Staff restraints of children and young people	11%
5	Cultural Support	9%
6	Programs and Education	9%
7	Behaviour Management	8%
8	Isolation	6%
9	Discrimination	4%
10	Access to community	2%

DHS has advised that it did not have capacity to formally respond to the Terms 3 and 4, 2021 recommendations or reports within the two-month timeframe requested. However, it has expressed the intention to address the concerns raised in an ongoing manner. The TCVU will continue to produce these reports.

Pilot Inspection Recommendations: Progress

Government accepted all ten recommendations of the Kurlana Tapa Pilot Inspection Report (June 2020). In doing so, it noted the crossover between the recommendations and elements of the Youth Justice State Plan 2020-23.^[14]

A table indicating progress with implementation of the recommendations in 2021-22 is appended as Attachment 1 to this report, presented in three columns -

- Column 1 - Pilot Inspection Report recommendations
- Column 2 - DHS update about 2021-22 implementation
- Column 3 - TCV comments about the DHS commentary.

The Department's 2021-22 commentary self-reports about 2021-22 implementation under four headings: *ongoing, in progress, not commenced or complete*.

Complete

Two recommendations were reported as complete:

- Recommendations 9 (review case management for post-release success and community reintegration) and
- Recommendation 10 (detainee data and reporting - dual involved).

This is fair, noting that both topic areas have ongoing implications that warrant ongoing TCV monitoring. The government's anticipated response to the SADI Project recommendations (June 2022) will help determine whether progress will continue.

Not commenced

Recommendation 2 proposes that an independent review be undertaken of the Behaviour Support Framework (BSF). This remains a priority concern.

In Progress

Two recommendations are described as being in progress,

- Recommendations 3 (detainee grievances and feedback) and
- Recommendation 4 (assessment of operational matters, with extensive matters listed).

This is a broadly reasonable assessment, although some specific matters are highlighted from the TCV's perspective in Attachment 1.

Provision of a child and young person focussed complaints/grievance process remains a critical matter that needs to be resolved.

[14] Young People Connected, Communities Protected - South Australia's Youth Justice State Plan 2020-2023 https://dhs.sa.gov.au/__data/assets/pdf_file/0008/89774/DHS-1322-YJ-State-Plan-2020-23_FA.pdf

Ongoing

The description of implementation of Recommendation 1 as ongoing is problematic (review the Kurlana Tapa model and practices to assess how they promote rehabilitation and reintegration, when balanced with security and correction).

As noted in Attachment 1, the DHS 2021-22 update does not address the substance of the recommendation and is silent about the guarantee of detainee rights under the Charter of Rights.

With respect to the other four recommendations for which implementation is described as ongoing we note broadly –

Recommendation 5 (data collection, analysis and reporting)

- Dialogue about enhanced data/information collection and accessibility has proceeded well, with active measures being taken to improve capacity by DHS. Some deficiencies should be addressed urgently, including the capacity to identify and respond to the needs of children and young people with disabilities and to provide quality information about core activities such as accessing schooling.

Recommendation 6 (Aboriginal detainees, including annual public reporting)

- This important recommendation proposed annual reporting about implementation of the Aboriginal and Torres Strait Islander Youth Justice Principle, necessarily involving direct engagement with Aboriginal children and young people and the community. The DHS feedback does not address this fundamental concern.

Recommendation 7 (better programs and services)

- This area still lacks strategic direction and coherence, with delivery negatively impacted upon by Covid requirements and staffing problems. Information consolidated in this report is indicative of how ineffectually this obligation was met under 2021-22 conditions. It is not clear why the systemic response lacked any real technology-based innovation.

Recommendation 8 (disabilities, psycho-social and developmental needs)

- We already have noted chronic data/informational needs in this area. However, ongoing efforts to enhance therapeutic capacity and practice is important.

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” (s.14(1)(d) of the Act). When possible, we support them to advocate on their own behalf, including through the Youth Advisory Committee or feedback/complaints process.

In many cases the power imbalance or sense of futility means that we act to support a child or young person to be heard.

Our Advocacy approach responds to issues in four ways –

- Minor Matters, which can be resolved immediately
- Enquiries, which require further information or scrutiny to determine whether an advocacy position is needed
- Formal Advocacy, where the TCV advances a specific advocacy position
- Monitoring, whereby the TCVU maintains oversight of a matter to confirm its correct resolution or management.

Assistance was required or requested from our advocates at least **132** times in 2021-22.

Matter for Immediate Resolution

Many issues that arise during visits were resolved quickly and informally with centre managers or staff in specific Kurlana Tapa or other agency work units.

Typical matters include those that may be referred to other services, those that do not need to escalation beyond unit or other direct interface staff, or issues which children and young people can be supported to raise themselves. Such matters arise frequently, may involve several detainees, and can re-emerge over time. Some matters warranted discussion with Kurlana Tapa management but did not generate specific case work. This happened often, for example, in relation to complaints about food, that also contributed to our systemic advocacy.

Top 10 issues young people raised with the TCVU, 2021-2022

	Characteristic	% of concerns	Example
1	Physical Health	14%	Concerns about delayed requests to see a nurse or physio
2	Staff	12%	Allegations about specific staff behaviour or conduct
3	Food	8%	Issues with food quality, or cultural appropriateness
4	Access	8%	Questions about when in-person visits can commence again, or getting phone numbers added to call lists
5	Phases/DRMP	6%	Concerns that assessed 'phase' scores are not fair
6	Restraint	6%	Reporting a physical restraint that the young person considered too rough
7	Cultural Support	6%	Requesting additional cultural support or care not provided by KTYJC
8	Unit	5%	Wanting TCVU to enquire about requests to transfer units which were denied
9	Covid	5%	Questions about Covid Protocols, most commonly eating in rooms
10	Facilities /Environment	4%	Issues with damaged, missing, or broken facilities

Simplified Case Study

Levi (17) had been involved in a recent incident but was not confident to speak with staff in his unit. Aware of the situation, a TCVU advocate visited to confirm his wellbeing, during which Levi advised that he was meant to have spoken with his lawyer earlier in the day, but this had not occurred. He didn't think that staff would listen if he asked to use the phone.

The advocate approached staff on his behalf to advise them that Levi needed to speak to his lawyer before 5pm. Levi was supported to make the phone call.

Enquiries & Advocacy Matters

The TCVU dealt with 63 new issues as 'enquiries' in 2021-22, with a further eight initiated as formal advocacy matters. This is a slight overall decline in numbers from the previous financial year, which we attribute partly to our more constrained 2021-22 visiting program (due to COVID requirements and Kurlana Tapa's ongoing staffing shortages).

However, we also note improved TCVU/Kurlana Tapa processes that facilitated early discussion and mutual responsiveness to young people's concerns

This impacted positively upon less complex matters, reducing thereby the likelihood of protracted queries and advocacy. Some examples of positive individual outcomes achieved occurred in relation to securing post-release placements,

.ensuring provision of ongoing medical care (for existing health issues) and approval of specific family members or friends for phone contact.

Individual advocacy issues usually have systemic implications. Hence, where appropriate, we applied both individual and systemic lenses to ensure work initiated with and for one young person might have broader application.

Monitoring

Monitoring usually is undertaken in two main circumstances. It may apply to a matter for which Kurlana Tapa has accepted a TCVU advocacy position and we decide to monitor its implementation. It also can occur when a young person's general circumstances or vulnerabilities warrant focused and ongoing oversight, with examples being where a young person has spent a significant amount of time on remand, or if they show a steep decline in mental or physical health, or if they are under the age of 14, or otherwise vulnerable.

Monitoring may require relatively straightforward tracking of a child or young person's progress within the Centre or can involve intensive ongoing dialogue with the young person and associated work with various DHS/Kurlana Tapa and other agency staff. This may occur over an extended period.

There were four monitoring matters over the 2021-2022 year.

Inquire & Advise

Under s.14(1)(e) of the Act, 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".

Ongoing Advice

A feature of this work was the transition of responsible Minister following the change of government in 2022. Advice was provided directly and through correspondence, some of which necessarily is confidential given the likelihood that individual children and young people may be identified (noting the requirements of s.66 of the Act). Important matters flagged with Ministers for Human Services in 2021-22^[15] included –

- concerns about the specific and ongoing deleterious impact of the Kurlana Tapa staffing crisis on detained children and young people

(and staff), especially problematic behaviour caused by frequent modified routines and isolation in rooms; poorer rehabilitation opportunities associated with implementation of the Behaviour Support Framework; compromised access to health services and education; an increased risk of self-harm

- associated unacceptable living conditions exacerbated by Covid protocols^[15]
- learning from the SADI Project in relation to dual involved children and young people
- the need to implement recommendations of the Pilot Inspection Report
- major concerns about detainees with mental health and/or disability related needs being held in the non-therapeutic Kurlana Tapa environment
- the serious practical and systemic implications of the assignment of new TCV responsibilities as a National Preventive Mechanism under OPCAT.

Formal Inquiries

The TCV did not initiate a formal Inquiry in 2021-22. Any formal inquiry that may be proposed in the future will be contingent upon appropriate and sufficient resources being available.

Inquire & Investigate

Section 14(1)(f) of the Act states that the TCV must "inquire into and investigate any matter referred to the Visitor by the Minister".

No matter was referred for investigation in 2021-22.

[15] Noting that some matters also required direct communication with other Ministers, including the Attorney General, Minister for Health, and Minister for Child Protection.

STRATEGIC MATTERS & ISSUES

In this section we introduce some important 2021-22 and ongoing systemic issues that bear upon the best interests of detained children and young people.

- Staffing crisis, modified routines and use of isolation
- Cultural safety and support
- Dual involved children and young people and the SADI Project
- Mental Health
- Health Care
- Food and Nutrition, and
- Education.

Please note unless otherwise stated, any tables in this section are derived from data obtained by TCVU through its Review of Records process.

Many of the concerns identified were exacerbated by Covid 19, and the subsequent preventative measures put in place by DHS. The TCV notes that these measures were developed in consultation with SA Health in the context of a declared high-risk setting. Relevantly and commendably, there was no transmission of COVID-19 to, or amongst children and young people in Kurlana Tapa, in 2021-22, although some detainees did test positive while in custody.

Staffing crisis, modified routines & isolation

Locking children and young people inside their rooms isolates them from meaningful human contact, with a potential to cause severe impact on their physical, psychological, and emotional wellbeing.^[16] For this reason, the Act and Regulations place strict limitations on the use of isolation and segregation. With formal requirements extending to reasons for initiating this measure; the duration of the lockdown; and associated record-keeping.^[17]

Kurlana Tapa operational policies do not treat all circumstances in which children and young people are locked in their rooms as 'isolation' or 'segregation'. Hence, according to Kurlana Tapa, these circumstances are not sufficient to trigger the legislated restrictions and record-keeping obligations.

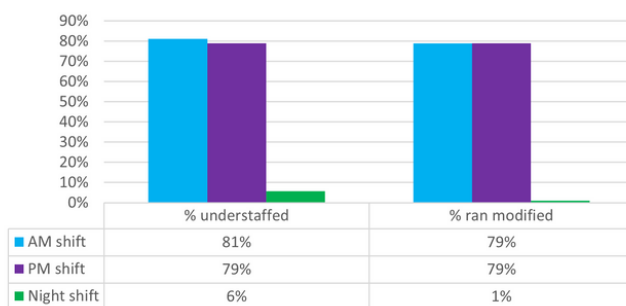
Critically, in 2021-22, Kurlana Tapa did not interpret lockdowns arising from staffing shortages as 'isolation' or 'segregation'.

Given this interpretation and the associated lack of records on these 'lockdowns' Kurlana Tapa are unable to account fully for time children and young people spent in isolation and segregated from human contact.

We undertook extensive work to access data about modified routines in the context of existing and critical staff shortages, eventually using Kurlana Tapa's informal 'duty supervisor shift reports' as a guide. This method of review is extremely time consuming with analysis of one term in 2022 requiring the resources of senior TCVU staff members across several days. It should be noted that this sort of information should be available in a consolidated form for proper management of the Centre. Based on the data extracted from the Term1 2022 shift reports, we estimated^[18] that approximately -

- 80% of shifts between the hours of 7am - 11pm were understaffed, by an average of 9 out of 21 required operational staff
- 6% of night shifts were understaffed, and
- 93% of days ran on a 'modified routine' for at least one unit, with this number increasing to 98% of school days.

Estimated proportion of shifts operating on modified routines and reduced staffing:
Term 1 2022



[16] For more information on the impacts of isolation practices on children and young people, see ANZCCG, Statement on Conditions and Treatment in Youth Justice Detention (2017), p. 20-21.

[17] Youth Justice Administration Act 2016, s 29; Youth Justice Administration Regulations 2016, rr 6-7.

[18] The TCVU's review process involved interpreting notes recorded by duty supervisors so are offered as estimates only, compelling though these numbers are. In particular, the average number of staff absent from a shift does not account for shifts where this number was not recorded on the shift report. It is concerning that this sort of management information is not available.

On most days in Term 1 2022, Kurlana Tapa did not have sufficient staff on hand to run the centre in accordance with ordinary regimes and routines. The deleterious impact of this included limited detainee access to peer and staff emotional support and to core health and education services, with an associated likelihood of increased safety and security risks. The absence of even a single staff member changes a unit's dynamics.

In 2021-22 we noted the following impacts in this context –

- **Exacerbation of critical incidents:** we identified an emerging trend of recourse to modified routines contributing to behavioural incidents.^[19]
- **Compromised access to health support:** shortages contribute to delayed or cancelled medical assessments and increased in-unit assessments that compromise confidentiality and privacy (see Parts 4.4 and 4.5).
- **Limited access to education:** escorted movements to education are impacted by staffing shortages with Kurlana Tapa staff deciding which units can attend school and many lessons being cancelled entirely. Many of these young people are at the age of compulsory education (see Part 4.7).
- **Limited opportunity for movement and exercise:** children and young people do not have access to the gym or pool when confined to their bedrooms or units.
- **Inconsistency of routines experienced by children and young people:** as noted in the SADI reports, children and young people often value the consistency and routine they experience when detained at Kurlana Tapa, which often contrasts with their more unsettled lives when in the community. Conditions created by the prevalence of modified routines in 2021-22 impacted seriously on time out of rooms, causing frustration and confusion. Detainees usually are aware of the amount of time other units spend out of rooms and compare their own circumstances, particularly in relation to access to the gym, or oval. Their perception of potential differential treatment is sharp, with the girls and young women in particular believing that they have less opportunity for physical activity than the boys.
- **Escalation of responses:** we know that some 90 % of detainees probably have disability related needs,^[20] and many have backgrounds of trauma and abuse that may help trigger heightened responses in tense circumstances

exacerbated by restricted living conditions and routines, especially if these generated the use of restraints or other controls.

Understaffing undermines Kurlana Tapa's capacity to support young people to self-regulate and deescalate in such environments, with staff potentially challenged by associated behaviours. This increases the likelihood of confrontation, with implications for possible pre-emptive use of restraints, assaults on staff and other young people, self-harming behaviours and ideation, and escalation of incidents to SAPOL that previously might have been better resolved in the context of a full staff roster. From this, possible injury and further criminalisation may result.

- **Ruptured relationships:** the recent SADI report emphasised that positive relationships between staff and young people can be one of Kurlana Tapa's best attributes and help promote rehabilitation. Staff shortages and associated tensions reduce the potential for constructive youth work and undermine relationships to the detriment of both staff and young people.

We did various things to understand better and address these concerns including –

Spoke and heard detained children and young people: this was and is at the heart of all our work.

Advocacy for improved data tracking: while acknowledging DHS work to improve data capture and analysis, more is needed to support internal and external oversight of the quality of care and treatment and ensure legislative compliance. We continued to collaborate to identify data gaps, recommended solutions and support Kurlana Tapa by feeding back the information we collate and interpret, hoping to inform and support management and operational practice.

Advocacy to the Minister and others: among other things, the TCV made recommendations in formal letters and meetings with the Minister and others to implement SADI Report recommendations, improve unit facilities, meet with the youth court and other stakeholders, and address the outstanding recommendations from the 2020 Pilot Inspection Report.

Advocacy to DHS: important issues were taken to and discussed at regular Executive and Centre management level meetings, including with respect to the scope and impact of staff shortages.

[19] Term 1 2022 records inspected by the TCVU suggest that up to 36 % of incidents for that period were: (1) connected to children and young people's isolation from other detainees or people outside KTYJC; or (2) were otherwise attributed by staff or young people to the impacts of understaffing and/or modified routines. DHS has recognised that time in rooms may contribute to heightened behaviours by children and young people and that some incidents are directly linked to this negative factor. TCV asserts this based on discussions with young people and data from review of record. TCV acknowledges that DHS is unable to confirm the accuracy of this statement or underlying data as it was not clear about the methodology used by the TCV to establish this linkage. This discussion will occur.

[20] 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.

Individual monitoring: we supported individual children and young people to raise their concerns in this context, especially with respect to excessive time spent in rooms.

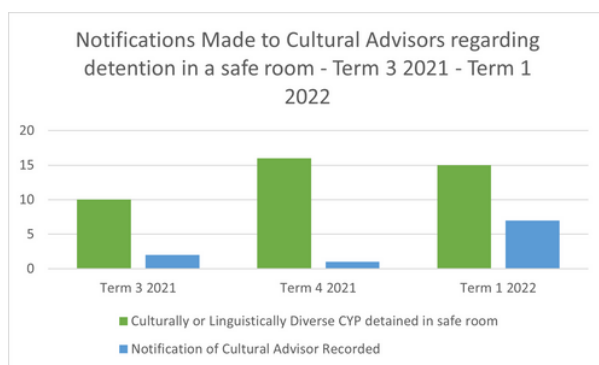
Public scrutiny: an Op Ed was contributed to InDaily arising from the concerns raised with us by children and young people.

Cultural Safety & Support

All those with duties under the Act must “take into consideration the different traditions, cultural values and religious beliefs of ethnic or racial groups within the youth's community”.^[21]

Aboriginal detainees and those from African backgrounds again sought support from the TCVU about cultural issues in 2021-22. Requests for support from children and young people with Central Asian, or Middle Eastern cultural backgrounds decreased this year.

Affected detainees raised concerns about what they saw as a lack of appropriate cultural support from Kurlana Tapa. Evidence from our Reviews of Records indicating that insufficient referrals are made for cultural support following uses of force or use of safe rooms corroborates this in those contexts. Section 28(6)(c) of the Act requires that when a child or young person of a cultural or linguistic minority is detained in a safe room that a “cultural advisor” be informed of that detention, yet on some 50 % of these occasions in the periods we reviewed there is no record of such action being taken.



There appears to have been only limited provision of appropriate cultural support for children and young people from culturally and linguistically diverse backgrounds other than Aboriginal detainees, particularly once the Kurlana Tapa Cultural Advisor position was retitled and reclassified to a Senior Aboriginal Cultural Advisor role.

Aboriginal Children & Young People

In early 2021-22, an apparent growth in Kurlana Tapa Aboriginal staff numbers was noted although this tapered off towards the end of the financial year, with a likely impact upon explicit and implicit cultural support for Aboriginal detainees. The Senior Aboriginal Cultural Advisor and Aboriginal Case Coordinator positions were vacant for periods of time.

Aboriginal children and young people engaged to a high level with TCVU staff in 2021-22 with 53 % of requests for support or advocacy raised by children or young people who identify as Aboriginal. These issues 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 access to cultural programs.

The impact of the perceived problems was exacerbated by the operation of rolling Covid protocols and the ongoing staffing crisis.

[21] Objects and guiding principles, s.3(2)(e)(v); also see the Charter of Rights (Attachment 3).

[22] Regulation 7(4)(d)(ii) under the Act makes further provision for cultural support for Aboriginal detainees if they are segregated from other children and young people.

Young people described having limited or no connection to the Aboriginal cultural garden, (variously attributing this to restricted access due to staffing issues, distractions created by the movement of other people across the campus, and weather conditions). Covid protocols also complicated matters as detainee interactions often were limited to unit groups with no mixing across cohorts.

Limited community member engagement with Aboriginal detainees continued in 2021/22 with even standard events such as NAIDOC and Reconciliation weeks having restricted attendance (limited to Aboriginal service providers) due to Covid protocols.

Detainees from other culturally diverse backgrounds

Approximately 18% of requests for advocacy or support came from children or young people from culturally or linguistically diverse backgrounds.

Specific issues raised by young people from African backgrounds included –

- a perception of differential treatment or racism by some peers or staff
- a belief that their cultural needs were not understood, or their opinions sought
- concern about culturally inappropriate food
- lack of cultural support, and limited or no cultural programs
- problems with co-residents, and
- lack of access to peer cultural support due to barriers between units mixing and other operational practices.

Covid protocols implemented at Kurlana Tapa impacted upon cultural programs for young people. Even though the number of affected individuals was relatively low, activities could only be facilitated in a single unit at a time, one result of which was that some children and young people completed periods of remand or detention without receiving any direct cultural support or activities/programs.

Overarching policy and procedural commitments with respect to this cohort are unclear. With the existing Kurlana Tapa Cultural Advisor position being reshaped to become a dedicated Senior Aboriginal Cultural Advisor role, responsibility and accountability for delivering direct cultural advice or support for detainees from other backgrounds is unclear.

Some relevant initiatives are noted in the DHS update on implementation of Recommendation 7 of the Pilot Inspection Report.

Responding to the spike in the number of detainees from African backgrounds in 2021-22, DHS reported having undertaken dialogue with relevant local communities

Dual Involved

The South Australian Dual Involved (SADI) Project was funded from February to December 2021. It drew on the skills and experience of an OGCYP Senior Advocate, supported by the office's administrative, communications, advocacy, and policy staff.

The SADI Project focused on dual involved children and young people, who are both in care and are, or have been, detained at Kurlana Tapa. As such they are within both the TCV's and the Guardian's areas of responsibility.

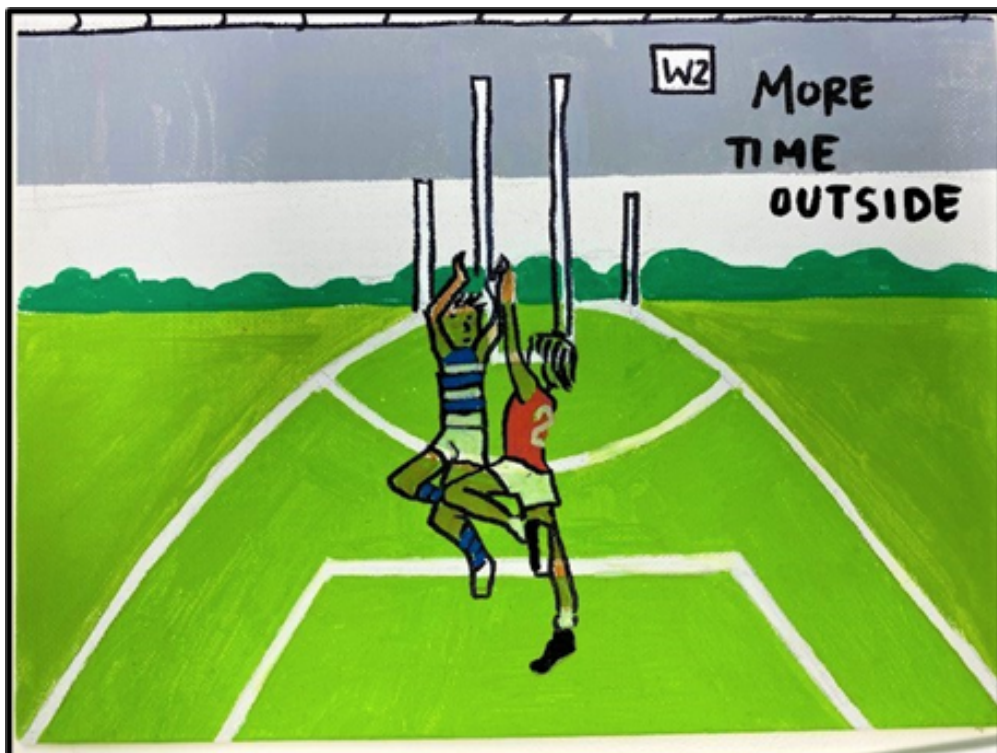
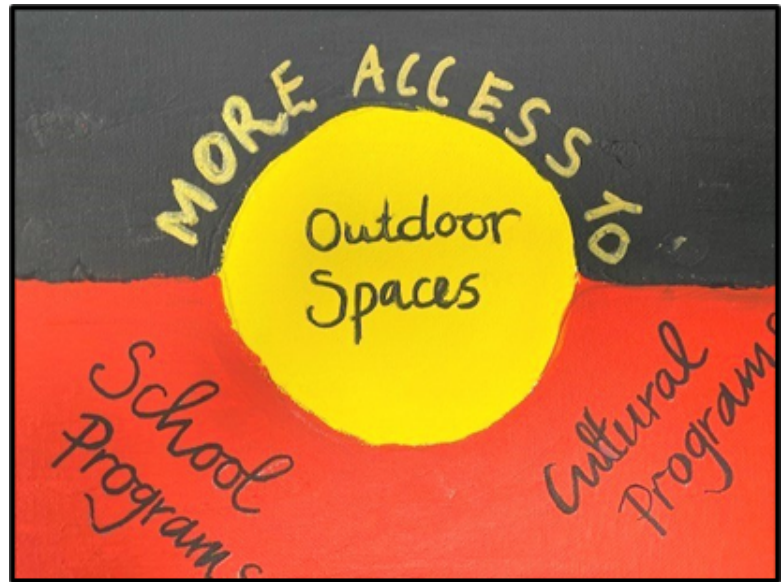
The project considered the over-representation of children and young people from residential care placements at Kurlana Tapa. In order to better understand this vulnerable cohort and their lives, we sought **their** views about why they are in detention, and whether or how residential care environments influenced their offending behaviour.

The Senior Advocate visited Kurlana Tapa as part of the TCV Visiting Program to establish or extend relationships with dual involved detainees, at times also contacting them in their residential care accommodation or other community settings. We advocated in relation to their "care, treatment and control" while they were in Kurlana Tapa, and their rights and best interests when in the community. When necessary, we met with services and families, including intensive engagement with lawyers, and the health, mental health, courts, disability, education, residential care, child protection and youth justice systems.

An interim SADI project report was tabled in Parliament in November 2021 and the final report provided to the Ministers for Child Protection and Human Services in June 2022.^[23]

Fifteen recommendations were made to government affecting several agencies, particularly in relation to care criminalisation through the residential care system, improving safety, stability and therapeutic support, improving policing and other youth justice system responses, and reducing reliance on residential care as a placement option.

[23] Objects and guiding principles, s.3(2)(e)(v); also see the Charter of Rights (Attachment 3).



Enhanced service coordination & oversight

The SADI Project affirmed the need for specialist and intensive case management services within DCP and youth justice, as well as dedicated resources for independent oversight and monitoring. Among other things, the TCV recommended –

- that DCP establish a specialist ‘dual involved team’ to provide expert and intensive support to dual involved children and young people and a central liaison function for service providers and agencies, and
- that government fund a specialist Dual Involved Senior Advocate position in the OGCYP office to provide individual advocacy and systemic oversight for the dual involved across government services.

Detention in Police Cells & Vehicles

Detaining children and young people in adult facilities usually breaches children’s rights.^[24]

Concerned that so many minors involved in the SADI Project spoke about being held in police adult custodial facilities, we visited the Adelaide City Watch House in September 2021, facilitated by helpful SAPOL staff. We confirmed that the Watch House is not a suitable detention environment for children and young people as it does not provide a child focused service nor a child safe environment.

We requested SAPOL data, which was provided, demonstrating that minors were arrested and detained in SA police cells at least 2,030 times in 2020–21. Of these 2,030 separate admissions, 890 (43.8 %) were for Aboriginal children and young people. In some regional/remote locations, all, or almost all children arrested and detained were Aboriginal.

A disturbing theme arising from our interviews with young SADI interviewees was the lack of privacy and dignity children and young people experienced while in the cells.

There is concern that police may not deal appropriately with the implications of such diversity and their child safe environment responsibilities. The previous Guardian/TCV has warned about the foreseeable impact of intrusive and traumatic strip searching, limited access to immediate medical oversight, and recourse to isolation practices.

And one time ... my best friend, she got arrested with me and she had to change her tampon, nanga, and she was asking for privacy, no people, and this male staff were just staring at her. They were full on just staring, bro. I was like, “What the fuck? Like, like let her have some privacy, man,” and he wouldn’t stop staring at her and she felt so uncomfortable. She had to wrap her fucking jumper around her own legs and like tuck it in

Well, no [I don’t feel safe], ‘cause like people just watch you and it’s like feral and they’re so aggressive in there, man, you know. Cops like there are so rude. You haven’t been rude to them and like they’re not supposed to be arrogant towards you.

Yes, when I nearly OD’d on the ground in there and they fucking just kept chucking me around. I kept vomiting they had to keep lifting me up so I wouldn’t swallow my own, my own vomit so I couldn’t choke. They kept moving me by my fucking hair,

[24] 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.

These concerns have considerable urgency given that South Australia currently has no independent monitoring in place for police detention facilities; the Training Centre Visitor's mandate does not extend to oversight of the circumstances of children and young people detained in police cells. It is not clear what imminent OPCAT arrangements will be made.

Noting similar concerns about the lack of independent scrutiny of children and young people when detained in vehicles, the TCV recommended in the SADI Report that –

- parliament legislate to provide the TCV with the mandate and resources to enable independent oversight of children and young people when they are compulsorily detained in transport vehicles under the authority of DHS/Kurlana Tapa, SAPOL, DCP, SA Health or a private contractor
- government undertake an urgent independent review of the practice of holding children and young people in police facilities to ensure that any such detention only occur in accordance with strict compliance with child safe principles, and
- that the TCV be granted statutory oversight responsibility for police facilities that function as places of detention for children and young people.

Mental Health

Generally, Kurlana Tapa is not an appropriate facility for children and young people who have mental health conditions or ill-health. It is not a therapeutic environment. While CAMHS staff may be on site during the day, and a psychiatric nurse or occasionally a psychiatrist may visit, there is not a constant availability of such specialist expertise. At times, there often are no qualified medical staff on site at all, including after hours and on Sundays. Medication is dispensed by Kurlana Tapa operational staff.

This resulted in an increasingly fraught environment exacerbated in 2021-22 by the impact of Covid Protocols, staff shortages and increased isolation of children and young people.

This concern is substantiated by data on self-harming behaviours and ideation during 'incidents'

collected by the TCVU during Reviews of Records, with examples occurring prior to, during or post restraint, and during safe room use. Our Review for Term1, 2022, for example showed that of the 32 individual detainees involved in incidents over that Review period, over half were involved in a self-harm related incident, here defined to include a risk of self-harm, self-harm behaviour or self-harm ideation.

Given that detained children and young people experience higher rates of mental health disorders and mental-ill health than the general population, legislation^[25] and international conventions^[26] establish high standards for their treatment and care.

Moreover, recent studies indicate that exposure to multiple forms of adverse childhood experiences, as well as trauma symptomatology, substance misuse, and behaviour dysregulation, are prevalent amongst children in the youth justice system. Adverse childhood events can exacerbate or trigger mental illnesses including depression, anxiety, schizophrenia-type conditions, and psychosis.^[27] Mental ill-health affects wellbeing to varying degrees and can manifest through difficulties with communication skills, social skills, emotional regulation and more.

Recent South Australian research identified that over 89 % of children and young people in contact with the youth justice system had backgrounds characterised by household dysfunction and maltreatment.^[28]

Some children and young people, particularly those from the child protection system, enter Kurlana Tapa with diagnosed ongoing mental health disorders, while others will be undiagnosed. A preliminary medical examination occurs on admission, but firm diagnostic assessments depend on referrals and access to timely appointments. Noting that the average length of stay in Kurlana Tapa are decreasing, there is no guarantee that a detainee will be fully assessed, a problem exacerbated in 2021-22 by other inhibitors, including –

- an inability to attend some scheduled medical appointments due to a lack of required escorts
- decision-making apparently determined at times by operational constraints rather than medical responsiveness

[25] Notably the Youth Justice Administration Act 2016; Mental Health Act 2009; and Consent to Medical Treatment and Palliative Care Act 1995.

[26] 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).

[27] Malvaso et al, 'Adverse Childhood experiences and trauma among young people in the youth justice system' AIC June 2022, at p12

[28] Ibid, p 5

- the time taken to schedule assessment appointments, particularly with specialists, in the context of what may be relatively short stays in custody, and
- the reluctance or resistance of some children and young people to being assessed.

We often observed Kurlana Tapa staff attempting to respond to problematic behaviour with compassion, including as first responders to incidents involving mental health episodes or behavioural difficulties. However, they do not have the full extent of medical or mental health expertise needed and their most relevant intervention training focusses on risk containment. At times, some staff characterise behaviour symptomatic of mental ill-health as behavioural or “acting out”. The Enhanced Support Team (EST) initiative aims to respond to this, but it has limited capacity to address the significant level of demand.

Self Harm and Ideation in Incidents, Term 3 2021 to Term 1 2022				
Term	Number of Incidents [29]	No. CYP involved	No. CYP exhibiting self harm [30]	% of CYP exhibiting self harm
Term 3 2021	86	124	24	19.35%
Term 4 2021	120	164	42	25.61%
Term 1 2022	92	114	44	38.6%

This is in an environment based on a model in which incentives are available as detainees progress (or regress) through phase levels, based on staff assessments of factors such as personal interactions, hygiene, behaviour with respect to staff, and compliance with unit rules. Low scores result in fewer privileges and more restrictions.

Behaviour that may arise in the context of a young person’s mental health or other issues therefore will impact upon their opportunities and quality of life in detention.

Custodial operational practices intended to neutralise behaviour that may pose a danger to other young people or themselves also can be triggering for young people with mental health issues or trauma backgrounds, examples being –

- use of mechanical restraints like handcuffs or leg-wraps
- physical restraint by staff, potentially involving being brought to the ground
- isolation of young people in their rooms or in padded “safe rooms”, and
- use of “canvas” – where clothing and bedding are replaced with tougher fabrics to prevent ligatures being made.

While such measures may be necessary as a first response, they do not address underlying issues and may exacerbate them.

The TCV notified both DHS and the Minister in meetings and in writing about the significance of individual and systemic mental health concerns as part of our ongoing systemic advocacy function.

Gender & Sexuality

Last year’s TCV Annual Report discussed the situation of detainees who changed their gender identification, noting sensitive and careful on-site management and support at Kurlana Tapa. Young people continued to seek TCVU advice and advocacy in the broader context of an age group with a developing sense of their own personality and sexuality.

Health Care

Services to help manage physical and mental health are important for detained children and young people. While Kurlana Tapa may not provide these services directly it must ensure access to appropriate planned and responsive health care. In practice, this focuses on the MYHealth on-site nursing program, present between 8:30am and 5:00pm Monday to Saturday (extended to 8:30pm on Mondays, Wednesdays and Fridays)^[31]. Doctors provide clinical services thrice weekly, and a dentist attends once. Space outside these hours, medical support is determined non-medically qualified Kurlana Tapa staff, who may turn to locum attendance, phone consultations, or in urgent situations, hospital attendance. These options may be problematic, for example, we have been told that locum doctors may refuse to attend KTYJC and can struggle with the custodial environment; ambulance wait times can be substantial, and any such interaction operationally can be affected by sufficient Kurlana Tapa staff available to facilitate access.

[29] The number of incidents identified by the TCVU is higher than those identified by DHS for the entire financial year (63). The TCVU believes this discrepancy arises from DHS under-reporting of self-harming behaviour, ideation and risk due to incident recording practice. The TCVU has raised concern about what we see as underreporting of self-harm in Review of Record reports.

[30] This number is an overall count of the number of times that a child or young person was involved in a self-harm related incident. The number of unique young people involved is lower, due to the prevalence of repeated self-harm behaviour.

[31] Notably the Youth Justice Administration Act 2016; Mental Health Act 2009; and Consent to Medical Treatment and Palliative Care Act 1995.

We are aware of at least two young people who repeatedly missed specialised appointments due to staff shortages and communication failure between health and centre staff.

Comparison of Medical Attendances Term 3 2021 – Term 1 2022			
	Term 3, 2021	Term 4, 2021	Term 1, 2022
Offsite Appointment	15	7	5
Emergency Attendance	2	10	3
Locum Attendance	0	2	0
Total	17	19	8

In addition to other duties, operational staff are required to manage prescribed medication (including ‘schedule 8’ drugs) and monitor side effects. They must also monitor the ongoing impact of injuries or illness and provide basic first aid. All this relates to a detainee cohort that statistically experiences high rates of previously unmet or compounding needs related to infectious illnesses and areas such as dental, reproductive, and mental health, resulting in disproportionately high morbidity and mortality rates during their lives compared to the general population.

Physical health issues that led to individual and systemic advocacy in 2021-22 included –

- infections requiring urgent surgery
- children and young people reportedly “coming down” off illicit substances, without medical oversight
- delayed or insufficient responses to potential head injuries, and
- children and young people waiting days for initial health assessments on admission, increasing the risk of missed serious conditions.

Beyond potentially complex personal health conditions, detainees may confront violent behaviour, ongoing risks of self-harm and risk arising from staff use of force and restraints.

Section s.33 of the Act anticipates the need to use force against children and young people in some circumstances. Subsequent assessment by appropriate health professionals is required, for example if recourse is had to physical restraints or placement in safe rooms.^[32]

KTYJC staff must facilitate these assessments by referring young people to an appropriate health service. Yet referrals following the use of restraints are recorded only intermittently, meaning that we do not know if Kurlana Tapa is in breach of the substantive obligation or the duty to record these events. At a minimum it brings into question whether management has sufficient information available to ensure and be accountable for effective operations in relation to detainee wellbeing.

The table below indicates that in Term 1 2022, of recorded incidents subject to s.33(2)(b) of the Act, only 46% met the medical referral requirement and 19 % the medical examination obligation.

Health Referrals and Examinations of 70 incidents occurring in Term 1 2022 that required health assessment pursuant to s.33(2)(b) of the Act		
	Referral	Examination
Completed	32	13
Incomplete	10	7
Unknown	28	5
% Actioned and evidenced	46%	19%

In 2022-23 we will continue to monitor detainee health needs through enhanced data collection and analysis and regular engagement with MyHealth and other health providers.

Further dialogue with and direct advocacy to the Minister and DHS will occur.

[32] S.33(2)(b), Youth Justice Administration Act 2016: “the manager of the training centre must ensure that the resident is examined as soon as practicable by an appropriate health professional for the purpose of assessing the resident’s health or mental health condition and needs”.

Food & Nutrition

Our food and nutrition focus carried over into 2021-2022. We advocated that a nutritionist review Kurlana Tapa food options and undertook individual advocacy in relation to food issues (particularly where it related to culture). Detainees identified the importance of food to them when interviewed and through specific concerns they raised.

Access to regular meals at Kurlana Tapa provides an opportunity to promote health and address common risk factors for this cohort associated with poor diet or low exercise.^[35] As one young person put it

"I'm here because I never got fed on the outside. I was starved at one of my residential care placements. The first time I came in [to KTYJC] you could feed me dirt and I would appreciate it".^[34]

Food is critical to wellbeing and is a source of enjoyment and cultural expression. Good diets protect against chronic disease, supporting optimal growth and quality of life,^[35] which is particularly important for criminalised populations.^[36] Detainees can be on medications that impact upon their appetite in an environment in which access to "snack" foods may not be individually controlled.

Covid restrictions and staffing problems adversely affected this environment in 2021-22, especially though the imposition of the requirement to eat most meals in bedrooms in the evening. Detainees eat either on the floor or their beds. This practice initially was rationalised due to the need to minimise the risk of infection from staff.

Prior to this, meals were eaten in communal areas, an opportunity to build camaraderie between staff and young people.

Other concerns that arose in this context were –

- Staff shortages extended to those responsible for food preparation, with children and young people reporting poorer quality meals (including microwaved meals that occasionally were not properly thawed).
- Attempts were made to appease or placate young people isolated in their rooms for extended periods through provision of fast-food dinners.
- Disordered eating behaviours were noted, for example through some children and young people stocking up on available snack foods in case the dinner was not edible.

2021 Research Project

Simone Deegan was the TCVU Principal Advocate in 2021. In that period, she consulted with detainees to document their views about food at Kurlana Tapa, securing their consent for those views to inform TCVU work as well as an academic study. An article drawing on these interviews has been published. It situates the food and nutrition experience and views of children and young people detained at Kurlana Tapa within a broader discussion of the role of food as a 'control' factor in custodial environments in a human rights context (with an emphasis on factors such as food as a punitive experience especially through a cultural appropriateness lens).

Deegan Dr S., **"Appetite for destruction: Food-related experiences of incarcerated children and young people Incarceration"** in Incarceration, Volume 3(2): 1-20 (2022)

[33] Note: Kurlana Tapa liaised with Flinders University to secure an analysis by nutrition and dietetics students, resulting in their report Kurlana Tapa Youth Justice Centre: Rapid Review of Food Service and Menus (2021). This provides helpful insights.

[34] Deegan Dr S., Appetite for destruction: Food-related experiences of incarcerated children and young people Incarceration, in Incarceration, Volume 3(2): 1-20 (2022) at p7

[35] 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>

[36] Criminalised populations often have health needs that far exceed the general population. See Public Health Association of Australia (2017). Prisoner health background paper. <https://www.phaa.net.au/documents/item/2579>.

The importance of food is affirmed by the extent to which it was raised by children and young people in feedback/complaint forms they submitted to KTYJC from July 2021 to March 2022, comprising 25 % of those lodged, the second largest proportion topic, the main themes and associated examples being -

- food hygiene (hair allegedly found in food)
- variety (a desire for different snack options)
- quantity (there is not enough/too much food)
- food preparation (some meals are overcooked or soggy)
- cultural responsiveness (there is a lack of culturally diverse/appropriate options)
- health (lack of lactose free options, concerns with healthiness of options)

It will be noted that views expressed may at times be contradictory, reflecting the different perceptions of individual young people.

What is clear is that food is a consistently significant matter to children and young people detained at Kurlana Tapa.

We addressed food related issues in several ways in 2021-22, including through -

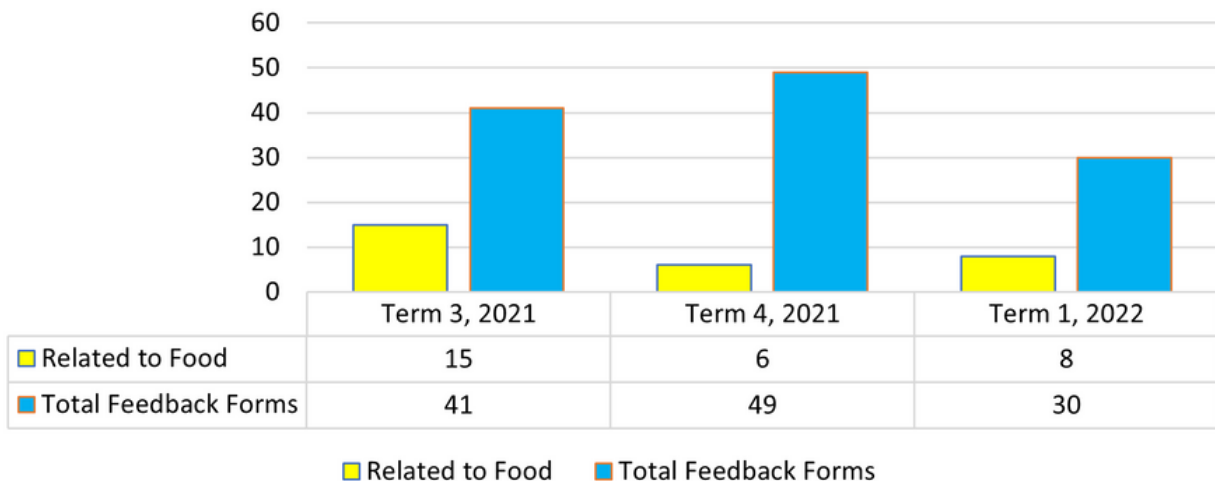
Individual Advocacy and accountability:

excluding matters raised during consultation interviews, the TCVU addressed 17 separate food related concerns in 2021-22. Commonly arising from dissatisfaction with meals, particularly in relation to preparation/provision (allegedly not thawed, burned, mouldy etc) or the nature of the food provided (e.g culturally inappropriate; or it being the cause of allergic reactions). Efforts were made to ensure children and young people were aware of when and how their concerns were pursued or escalated.

Systemic Advocacy: this arising from ongoing scrutiny of menus and meal plans throughout 2021, as well as issues drawn from the frequency and importance of concerns raised as individual matters.

Awareness Raising: as well as provision of information on the OGCYP website, cooperation with Simone Deegan (see separate box), TCVU Principal Advocate in 2021, led to publication of her academic article in 2022.

FEEDBACK FORMS RELATING TO FOOD: JULY 21 - MARCH 22



Education

The Minister must promote the rehabilitation and community reintegration of detainees and their 'development into responsible members of the community'.^[37] Education helps achieve this at Kurlana Tapa through the on-site Youth Education Centre (YEC), with the DHS Chief Executive having education and training related obligations under s.27 of the Act.

All South Australian children and young people aged 17 or under must attend an approved learning program (usually school) unless they have already achieved their SACE or other qualification or are in full-time employment. The duty to ensure that detainees at Kurlana Tapa attend school was not always met in 2021-22. In the community, failure to meet this obligation has serious potential implications for parents (s.68 of the *Education and Children's Services Act 2019*).^[38]

Consideration of population data suggests 76% of individual children and young people detained at KTYJC are of compulsory school or education age (see table below).

Delivering schooling in a youth detention facility is inherently challenging, noting that –

- some 9 in 10 Kurlana Tapa detainees have a disability or disability related need^[39]
- many have inconsistent (or no) engagement with education while in the community
- there may be no correlation between a student's age and standardised educational level (for example, many function at a junior primary school literacy level), and
- students may be in Kurlana Tapa for periods of days or months, complicating engagement with teachers and curriculum, with some returning to the Centre for short or long periods multiple times over the school year(s).

Children and Young People of School Age in KTYJC across the 2021-22 Financial Year (Table Data provided by DHS)				
	Compulsory school age: 10 – 15 years	Compulsory education age: 16 years	Above compulsory education age: 17+ years	Total
Number of separate admissions	440	154	165	759
% of admissions	58.0%	20.3%	21.7%	100%
Average daily population (number of CYP)	12.0	8.9	10.9	31.8
% of average daily population	37.7%	28.0%	34.3%	100%
Number of individual CYP detained	152	70	70	292
% of individual CYP detained	52.0%	24.0%	24.0%	100%

[37] Section 3(1)(e) of the Act

[38] Education and Children's Services Act 2019 ss 68–69

[39] 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

One impact of Covid Protocols was that education was delivered (or not) to groups based on their accommodation units (determined by factors such as sex, behaviour, and 'no-mixes' that separated individuals on a non-educational basis). This resulted in classes where one student may function at a year 10 level while another is at an early primary literacy level.

Throughout Australia, schools pivoted to remote learning in the Covid environment to ensure that, even with restrictions in place, education could continue. The YEC did not, or was not able to, implement different or remote measures to support children and young people to continue their schooling.

Having an on-site school should facilitate access to education given that students simply must cross the grounds to attend. As with access to health services, however, the requirement that the young people be escorted by operational staff proved to be a problem in 2021-22 where staff shortages or rostering problems often led to class delays or cancellations. It is hard to reconcile this systemic breakdown in access to education with the attendance requirements established in the Education and Children's Services Act 2019.


The TCVU monitored detainee access to education and found that if young people could not attend, they simply missed school, in some instances for consecutive days. While YEC staff prepared work sheets for students to complete during the pandemic, Kurlana Tapa staff were required to collect these and support children to complete their tasks. It is our understanding from feedback from young people, KTYJC staff and Education staff that this rarely occurred.

Further, practical limitations imposed by Kurlana Tapa under Covid protocols, especially whilst detainees were in isolation, prevented worksheets from being collected and delivered to the YEC for grading.^[40]

The TCVU understands that such practical limitations were in place to minimise possible Covid transmissions.

The impact of reduced educational opportunities extended beyond children and young people's learning and development need. Schooling at the YEC provides a value opportunity to engage with their peers and educators and develop socialisation skills. The significant time removed from such environments is counter to a 'rehabilitative' approach.

One young person expressing the view that the YEC was important because -



"It's the only time we get out of our rooms, and all the boys love it.... Maybe not out [in the community] but in here"

The failure to ensure detainees can attend school consistently has undermined the YEC's capacity to forge a connection to education that some young people otherwise miss, a lost opportunity mentioned to TCVU advocates by some YEC teachers and Kurlana Tapa staff.

[40] This continued to be a problem into 2022-23, although we understand that work is underway to remedy the failure to provide 'remote' education at Kurlana Tapa.

CHANGING STATUTORY LANDSCAPE

Unresolved statutory hurdles

The TCV's statutory mandate derives from the Youth Justice Administration Act 2016, with s.14 outlining required functions, and a specific responsibility with respect to residents who are under guardianship, are Aboriginal, or who have a physical, psychological or intellectual disability. The main ongoing programmatic functions relate to promoting the best interests of affected children and young people, advocacy, visiting and inspecting, with a capacity to conduct inquiries and undertake investigations.

It became clear from the commencement of TCV activities in late 2017 that the Act had some problems, despite its overall efficacy. Since that time, the TCV has called for the Act to be reviewed to address now longstanding concerns. In addition to various approaches to Ministers and DHS, this was identified in the first TCV Annual Report (2017–18) and those that followed.^[41]

As discussed below, the imperative to address these problems is even more urgent in the current environment, especially given the imminent commencement of the TCV's OPCAT NPM responsibilities. We also draw attention to critical issues such as the inadequate scope of the TCV's current mandate with respect to which children and young people come within the protections of the Act, and what physical locations are subject to the TCV's independent oversight.

Restricted coverage of places of detention holding children and young people

The Act continues to deny children and young people, deprived of liberty outside of the physical location of Kurlana Tapa, the protection of the independent oversight of TCV. This is particularly relevant for key places such as children and young people held in police or court cells, secure medical facilities and when under the control of a private security firm while in transit.

Such places of detention should be subject to child-focused, independent oversight, especially if the facilities also hold adults. Some groups may be at particular risk in this setting, including those for whom the TCV has a specific brief: Aboriginal children and young people, those under guardianship, and those with a physical, psychological, or intellectual disability.

This concern is compounded by the limitation, arising from restrictive terminology in the relevant part of the Act, which limits TCV functions literally to what occurs **within** Kurlana Tapa walls rather than applying in a child focused way to the children and young people themselves while they are in custody.

Restrictive interpretation of “resident of the training centre”

Crown Law has advised that the term “resident of a training centre” must be read restrictively, which means that Kurlana Tapa detainees only come within the TCV's formal mandate when they are physically within centre precincts. This also means that they pass in and out of the TCV's oversight although they are always ‘in custody’, yet the Minister's responsibility applies within and 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.

Why would detainees be outside Kurlana Tapa?

There are many reasons why a child or young person may be temporarily absent from the centre but is still a ‘detainee’ / ‘resident of a training centre’, including but not limited to –

- accessing medical attention at the Women's and Children's Hospital or other health facility
- taken to or restrained within Mallee Ward, the WCH child psychiatric unit
- attendance at court
- attending a funeral
- participation in education or training, or
- as part of a phased transition out of custody.

[41] One was addressed in the interim through administrative action to allow the TCV to delegate her functions and powers to TCVU staff. It still will be appropriate to assure TCV independence by amending the Act accordingly.

As it stands, TCV advocacy does not extend to what happens to a detainee while they are away from Kurlana Tapa. This inconsistent oversight is not in a child or young person's best interests.

The continued apathy in dealing with this technicality is a missed opportunity that places both the detainee and relevant service providers at significant vulnerability and risk. For instance, when detainees are physically moved between health, court, education, transport and other services, it is challenging for Kurlana Tapa to monitor how these services treat and care for detainees. Associated difficulties include the administrative burden of accessing information from other agencies, as well as a lack of control over these agencies' policies, procedures and staff performance. Nevertheless, the Minister maintains custody of detainees, whether they are within the walls of a training centre or not.

The risks to children and young people's safety, health and wellbeing do not lessen when they move beyond Kurlana Tapa walls. In addition to the detriment this poses for children and young people, the loss of TCV oversight and advocacy increases the burden on Kurlana Tapa to manage external processes and complaints without independent expertise to support policy making and resolution of individual advocacy matters.

The TCV's specialty in child-friendly processes, broad information powers and capacity to provide advocacy spanning complex inter-agency processes places the unit in a unique position to provide advice and advocacy when detainees are receiving services in the community. A simple legislative amendment to clarify the TCV's mandate has the potential to not only improve the health, safety and wellbeing for children and young people, but also the quality of independent support the TCV can provide to the Department and Minister.

Implications

The restricted reading of the term 'resident of the training centre' has implications that need to be considered –

- it seriously compromises the TCV's capacity to perform her Advocacy function to the extent necessary, leaving children and people without the appropriate protections they are entitled to under domestic and international law

- children and young people need oversight and access to advocacy from the point at which they are taken into police custody, while they are remanded or sentenced, through to the time of their release from detention.
- post-release advocacy also should be available to ensure through-care and adequate transition planning
- children and young people in home detention and detainees on early release also currently have no access to our advocacy and support.

The desire that the TCV to has appropriate oversight and is accessible to youth justice involved children and young people is consistent with views commonly expressed by the children and young people with whom we work.

Parliament is urged, again, to amend the *Youth Justice Administration Act 2016* to ensure, at least, that a child or young person has access to TCV support from the time they enter police custody through the duration of their 'custody' until they are released. This could be achieved by a simple amendment to s.14 of the Act and associated Regulations as the TCV proposed previously and again puts forward.

YTO & Mandatory Secure Care

Youth Treatment Orders^[42]

The Controlled Substances Act 1984 (the CS Act) establishes the Youth Treatment Orders (YTO) scheme, creating a capacity to seek mandatory, Court-ordered assessment and treatment for young people detained at Kurlana Tapa who are drug dependent and treatment resistant. 'Phase One' of the YTO Scheme applies solely to Kurlana Tapa detainees, with its possible extension subject to review of the YTO Scheme after three years of the Act's commencement (s54P).

The YTO Visitor role, assigned to the TCV nominally began at the commencement of the Scheme in November 2021.

Section 54L(2) of the CS Act requires the YTO Visitor to monitor a child or young person's health, safety and wellbeing while under a YTO detention order.

No child or young person was assessed for or placed under such an order in the period to 30 June 2022.

[42] Detailed information about this new role is available in the separate Annual Report provided to Parliament by the TCV about implementation of the YTO Visitor role since November 2021.

The TCV sought Crown Law advice about how the newly assigned YTO Visitor mandate and role relates to her ongoing TCV functions in February 2022. That advice noted that any detainee placed under a YTO is –

- covered by the Charter of Rights
- has recourse as a consumer to the protection of the Charter of Health and Community Services Rights” under s.19(1) of the *Health and Community Services Complaints Act 2004*; and that
- the complementary nature of the functions under the YJA Act (TCV) and CS Act (YTO Visitor) mean that both visitor roles can be exercised contemporaneously.

TCVU work focussed in 2021-22 on negotiating with the Attorney-General’s Department to establish the YTO Visitor Establishment Project, which now is being conducted in accordance with a Memorandum of Administrative Arrangement (MoAA) for the period through to 30 June 2023.

The project commenced in May 2022 and will –

- design and implement a YTO visiting model
- develop and implement associated policies and procedures
- visit children and young people at Kurlana Tapa
- engage with other YTO Scheme stakeholders, and
- identify and facilitate appropriate skills and training for YTO visitors.

Mandatory secure care?

YTOs are just one example of a mandatory secure care model. The Minister for Child Protection discussed this issue at an Estimates hearing in June 2022, noting that the recommendation for a secure therapeutic care model arising from the Nyland Royal Commission faced an overwhelming majority of stakeholders who “were not sure about the particular model”, preferring that “a therapeutic model of care to be embedded across the system”^[43]

The then Guardian/TCV concurred with the general view, recognising that depriving children and young people of liberty must only ever be a measure of last resort. Whether for forensic, therapeutic, rehabilitative,^[44] ‘safekeeping’ or other purposes, options that incarcerate children and young people should always satisfy rigorous requirements.

Any new model, service or program to compulsorily detain children and young people must meet fundamental benchmarks of adherence to human and child rights principles and protections, have service and systemic coherence, and be resourced adequately.

All should be recognised as places of detention for purposes of the Optional protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading treatment or Punishment (OPCAT).

OPCAT

Australia ratified the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in December 2017. Intended to prevent mistreatment of people in detention, this requires establishment of independent National Preventive Mechanisms (NPMs) to inspect places of detention and closed environments and provide preventive oversight and broad civil society input. Assumption of an OPCAT NPM role will have major implications for the structure and exercise of existing TCVU functions.

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 centralised body. The TCV has been involved in discussions about the application of OPCAT to places of detention for children and young people in South Australia. It is expected that the TCV will be designated as an NPM to commence responsibilities from January 2023 in a bill that needs to be presented and considered by Parliament as soon as possible.

It is important that this is based on the understanding that the TCV’s existing functions under s.14 of the Youth Justice Administration Act 2016 are complementary to, but not the same, as an OPCAT NPM’s responsibilities.

As mentioned previously, the TCV’s current mandate only applies while detainees are physically within the walls of Kurlana tapa, which is not sufficient to meet the scope and operational requirements of an NPM that provides preventive protection for children and young people held in ‘places of detention’.

[43] Hon Katrina Hildyard MP, Estimates Committee B, Department for Child Protection, 21 June 2022

[44] 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>

Clarity was provided by the South Australian Government who notified the Commonwealth in 2021-22 that the TCV had been assigned an NPM role without legislation being enacted nor funding identified. Please note that the previous TCV again advised, early in 2022, that necessary NPM powers and functions could not be exercised without adequate resourcing, noting that the role does not simply replicate that currently established under s.14 of the YO Act but will require additional site access, new preventive activities and a heightened focus on engagement with civil society.

Budget/Program/Resources

The TCV Program continues to operate under a redundant 'establishment' budget that does not enable full and adequate implementation of TCV functions. There is still no dedicated youth justice Aboriginal Advocate position.

The DHS/TCV MoAA adopted in 2022 provides for an annual budget development process. This continues the untenable and uncomfortable situation that such negotiations are required to be undertaken with the agency over which the TCV has oversight responsibilities.

This calls into question to the fundamental principles of independence of the TCV, when the body for which it provides oversight funds that function.

It also means that the government's annual Budget is not transparent about the level of funding allocated (including in forward estimates) to meet the obligation in s.13 of the Act whereby – *"The Minister must provide the Training Centre Visitor with the staff and other resources that the Visitor reasonably needs for exercising the Visitor's functions."*

THE TRAINING CENTRE VISITOR UNIT

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

Staff Profile

Mandated

Training Centre Visitor

Penny Wright from July 2017 to August 2022
Shona Reid (from August 2022 to current)

The Training Centre Visitor function is provided for Under the Youth Justice Administration Act 2016.

Core TCVU Operational Positions

Principal Training Centre Advocate

Dr Simone Deegan from January 2021 to January 2022
Nadia Baldassi-Winderlich (February 2022 to current)

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

Training Centre Advocate

Travis Thomas (from February 2018)

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

Associated & Support Positions

Principal Policy Officer, 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. The PPO also has oversight of cross OGCYP policy work.

Youth Treatment Orders Project Officer, Steve Goss only recently commenced this new role in May 2022.

Conrad Morris from the Guardian's Advocacy Team, in addition to assuming the role of Senior Advocate for the SADI Project, has ongoing input to TCVU visiting and advocacy activities, especially for dual involved children and young people.

In 2021/22, Jessica Flynn, then Alicia Smith filled the role of OGCYP Senior Policy Officer, providing direct support to the TCVU, especially for reviews of records, policy work (notably the SADI Project) and data compilation and analysis. Administrative and communications support for the TCV Program was provided by staff of the Office of the Guardian for Children and Young People.

Law Interns

The TCVU continued to host the University of Adelaide final year Law students for a 22-day Law and Justice Internship. This mutually beneficial program creates the opportunity for the students to engage directly with and contribute to the work of an independent oversight and advocacy office; in turn, we make a community contribution while benefiting from the meaningful work the students undertake.

Kellie Elmes joined us in Semester 2 2021. She prepared a literature review that discussed the current state of mental health care in Australian youth detention centres and associated legal and human rights frameworks. Kellie also contributed directly to work relating to OPCAT (mainly regarding the role of Civil Society) and the ongoing SADI project.

In Semester 1 2022, **Jennifer Novak** examined the implications of the recent introduction of the Youth Treatment Orders Scheme in South Australia for the rights of children and young people in detention. Jen also assisted with the preparation of reports for the SADI project.

[41] One was addressed in the interim through administrative action to allow the TCV to delegate her functions and powers to TCVU staff. It still will be appropriate to assure TCV independence by amending the Act accordingly.

Finances 2021-2022

Financial Summary of expenditure 2021-2022 ('000)

Project 973: Training Centre Visitor

Item	Budget	Actual	Variation
Salaries and wages	389	441	-52
Grants, goods and services	38	53	-15
Total	427	494	-67
Revenue (DHS)	427	427	
Net	0	-67	

Workplace Health and Safety

No incidents resulted in workplace injury in 2021-22.

Complaints

The TCV Unit uses the grievances and complaints policy available on the Guardian's website. No complaints were received in 2021-22.

Freedom of Information

The TCV received no freedom of information requests in 2021-22.

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.

Strategic & Organisational Planning

A new Strategic Plan was adopted in June 2022, prior to the new TCV commencing, to express common values and goals for the programs/mandates implemented from within the Office of the Guardian for Children and Young People.

The new *Strategic Plan 2022-25* provides a common basis for work undertaken within both the youth justice and child protection mandates, the former as implemented through the TCV Program.

Strategic Committees

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 some form in 2021-22, 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)
- Meetings between TCVU, DHS Youth Justice Directorate and management of KTYJC.

ATTACHMENT 1

Implementation of Pilot Inspection Recommendations

This table provides the DHS update of the implementation of the ten TCV Pilot Inspection Report recommendations (Report on the 2019 Pilot Inspection of the Adelaide Youth Training Centre, TCV, June 2020).

- Column 1 – the full Pilot Inspection Report recommendations
- Column 2 – commentary for implementation of recommendations in 2021-22
- Column 3 – TCV comments about the DHS commentary. DHS update for the financial year ending 30 June 2022.

Training Centre Visitor Pilot Inspection Report Recommendations Progress Update 2021-22

Inspection Report Recommendation	DHS progress update for 2021/2022 (provided September 2022)	TCV comments about the DHS response
<p>Recommendation 1</p> <p>That the model and associated custodial, protective and developmental policies and practices applied at the AYTC be reviewed to:</p> <p>a. assess their application and effectiveness in:</p> <p>i. meeting the objects of the Youth Justice Administration Act 2016 (SA), with regard to those objects that seek to promote the rehabilitation and reintegration of youths with the community; and</p> <p>ii. providing detainees with the capacity to enjoy the rights expressed in section 22 of the Charter; and</p> <p>b. develop recommendations to ensure a balance between meeting the objects of security and correction on one hand and rehabilitation and reintegration on the other.</p>	<p>Ongoing.</p> <p>In 2021/22 DHS entered a research partnership with the University of Adelaide, which is contributing to the development of an improved operating model and practice framework. This work is overseen by the Youth Justice Principal Psychologist and the Communities and Justice Leadership Team, and will review, develop and articulate how to most appropriately meet the Department's responsibilities under the Youth Justice Administration Act 2016. DHS Communities and Justice continues to review the Kurlana Tapa Operational, Security and Emergency Orders (operational policies and procedures). The TCVU continues to contribute to the review of Orders as requested, to ensure the Orders comply with all legislative instruments and requirements. In 2021/22 24 of the 75 Kurlana orders were updated and published.</p>	<p>The "KTYJC model" refers to the system through which children and young people are deprived of liberty in a prison-like facility, with a review needed to examine whether and how the basis for current practices achieve the rehabilitative goals of the Act. DHS work to date still does not address the substance of this recommendation.</p> <p>The two processes identified by DHS are helpful, but insufficient (partnership with Adelaide University to help develop an improved operating model and practice framework, and the review the Kurlana Tapa Operational, Security and Emergency Orders (operational policies and procedures).</p> <p>The DHS feedback does not respond to the recommended focus on detainee rights under s22 of the Youth Justice Administration Act 2016 – the Charter of Rights for Youths Detained in Detention Centres.</p>
<p>Recommendation 2</p> <p>a. That DHS conduct an independent evaluation of the effectiveness of the AYTC Behaviour Support Framework (BSF) since its inauguration, including the extent to which it:</p> <p>i. supports the optimal achievement of the objects of the Youth Justice Administration Act 2016 (SA); and</p> <p>ii. responds to the needs of children and young people with varying cognitive abilities.</p> <p>b. That the reviewer should consult directly with detainees, staff and appropriate community members as a core review activity.</p>	<p>Not commenced.</p> <p>The work from the research partnership with the University of Adelaide will help inform the review and update of the Behaviour Support Framework. A new Operating Model is being developed for the Centre which will also consider a more contemporary approach and the BSF will be reviewed in this context.</p>	<p>The TCV will welcome an opportunity to discuss the proposed BSF Review and the timeline for reviewing and developing a new Operating Model.</p>
<p>Recommendation 3</p> <p>That AYTC take immediate action to provide detainees, including those with specific communication support needs, with the following processes to seek formal responses to matters of concern to them:</p> <p>i. a formal grievance procedure supported by independent advocacy and oversight; and</p> <p>ii. a separate feedback mechanism through which detained children and young people can initiate consideration of general concerns and make suggestions about their lives in detention.</p>	<p>In progress.</p> <p>Work to improve the complaints and feedback mechanisms continued in 2021/22, including development, consultation and improvement, and implementation of formal written feedback to residents who make complaints. The implementation of GovSAfety across DHS on 16 May 2022 has improved tracking, reporting and monitoring of complaints and feedback from young people in Kurlana Tapa. DHS is now able to report on response timeframes and categories of complaints to improve oversight and enables DHS to track trends in complaints more effectively.</p>	<p>The TCV awaits the opportunity to discuss progress, noting with respect to the DHS update that –</p> <p>i. Our Review of Records for Terms 3 and 4 2021 and Term 1 2022, indicate that no formal written responses were provided to children and young people who lodged feedback/complaint forms</p> <p>ii. The TCV requests access to the reporting on "response timeframes and categories of complaints to improve oversight" that allow trends to be tracked.</p> <p>iii. The role of the Youth Advisory Committee needs to be clarified in relation to other consultation or participation processes available to detainees.</p>

In 2022 the Youth Advisory Committee (YAC) resumed regular monthly sittings. YAC meetings provide a structured opportunity for engagement with children and young people to:

- Voice their concerns and suggestions about their lives at Kurlana Tapa.
- Exercise choice over various aspects of their lives while they are at Kurlana Tapa
- Contribute to their sense of agency and overall wellbeing.

In 2021/22 Youth Justice Services Senior Speech Pathologists and Senior Aboriginal Cultural Advisors undertook the Enhancing Communication project. Through the project a range of resources were developed to improve written and verbal communication for children and young people about processes, rights and responsibilities while they are at Kurlana Tapa and in the youth justice system more broadly. A separate complaint form and process will be in place by mid-September 2022.

Systematic communication with the resident population about the consideration given to and results of their input needs improvement. The Enhancing Communication project is a positive initiative that warrants further reporting.

Recommendation 4

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

a. establish clear expectations with respect to the following:

- i. operational demands and resources; ii. necessary staffing across work and functional competency areas;
- iii. the capacity of the facility and associated amenities to meet current and anticipated demands;
- iv. accommodation and facilities that meet the needs of individual and specific groups of detainees (including those identified in this report such as girls and young women); v. access to core services at all times; vi. minimal impediments to enjoyment of rights [under the Charter], including through access to appropriate recreational, health, educational and socialising opportunities; vii. the suitability of the current blanket gender 'no-mix' rule for detainees;

b. consider the impact of facility deficiencies identified in this report, including the following:

- i. the need for a second accommodation unit for girls and young women that - [allows for separate living environments for detainees by age, as is currently the case for males; provides access to operational features, such as regression space] ii. educational/training spaces and opportunities; iii. recreational and outdoor spaces and opportunities; iv. cultural safety and appropriateness; v. Visitor Centre spaces; vi. appropriateness for different status detainees: for example, those in police custody; those on remand (and presumptively innocent); and potentially new classes of children and young people being placed in secure care (such as those detained under Youth Treatment Orders); vii. provision of a step-down transition unit for long-term residents scheduled to return to the community; and

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

Not commenced.

The work from the research partnership with the University of Adelaide will help inform the review and update of the Behaviour Support Framework. A new Operating Model is being developed for the Centre which will also consider a more contemporary approach and the BSF will be reviewed in this context.

This recommendation was made in the context of the consolidation of Kurlana Tapa operations on the single, Goldsbrough campus. Its elements determine the carceral experience of children and young people as well as facility and operational matters. These factors now exist within an ongoing single-campus operation. The elements of the recommendation, and how they are being addressed, have ongoing significance. Most are dealt with in in this annual report, some critically.

Some positive 2021-22 activities noted by DHS were -

- i. expanded use of unsupervised leave for Kurlana Tapa residents under s.34 of the Act
- ii. reference to design principles that consider the needs of Aboriginal detainees and those with complex needs, as well as the physical and psychological impacts of a custodial environment (e.g through 'sensory' elements)
- iii. planned separation of police custody facilities ongoing case management improvements.

Recommendation 5

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

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

Ongoing.

Work to enhance the Kurlana Tapa data model continues. The PowerBI model now enables reporting on Aboriginal Nations and sentenced offences. Mapping is currently underway to identify the residence, suburb and region of a child or young person prior to entering custody.

Work to enhance the electronic recording system at Kurlana Tapa continues.

Dynamic Risk Management Plan functionality is currently under modification and Regime monitoring functionality is under review. Progress on this review will be provided at the end of October 2022.

DHS systems are developing, and dialogue about access to monitoring data and information has progressed well.

It is not clear what was done to enhance the electronic recording system at Kurlana Tapa nor when an enhanced system will be operative. Information remains deficient in relation to core factors such as disability, health, and access to education.

It is difficult to see how the Centre's responsibilities can be met if there is a continued lack of reliable information about the extent and nature of disabilities within the detention population and measures taken to accommodate these.

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).

Recommendation 6

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

Ongoing.

DHS remains committed to meaningfully embedding the Aboriginal and Torres Strait Islander Youth Justice Principle into all areas of practice at Kurlana Tapa and will consult the Training Centre Visitor on the most appropriate way in which to report on its implementation.

Given the broad demands on Aboriginal staff within DHS Communities and Justice, work to meet the cultural needs of Aboriginal children and young people has taken priority in the 2021/22 year.

In 2021/22 the role of Kurlana Tapa Cultural Advisor changed to Senior Aboriginal Cultural Advisor. That position now sits within the Kurlana Tapa Management team.

The Senior Aboriginal Cultural Advisor has been working with other Aboriginal staff within the directorate to establish an on-call system to provide out of hours advice on the cultural needs of Aboriginal children and young people at Kurlana Tapa and where necessary to provide direct care and support for Aboriginal children and young people out-of-hours. This approach has been actioned on several occasions to provide specific, culturally led support to Aboriginal young.

Senior Aboriginal female staff members within DHS Communities and Justice have been working with the Senior Aboriginal Cultural Advisor to meet the cultural needs of Aboriginal girls and young women at Kurlana Tapa.

DHS Communities and Justice continues to prioritise hiring and retaining Aboriginal staff into all areas of the business through targeted recruitment informed by the DHS Aboriginal Recruitment Guide and Aboriginal Employment and Retention Strategy.

DHS Communities and Justice held the Aboriginal Community Controlled Organisation (ACCO) Forum in August 2021 to build and strengthen relationships with Aboriginal organisations.

Plans to develop an Aboriginal Visiting Program in Kurlana Tapa were delayed due to COVID-19 however planning has now commenced. This project sits with the Kurlana Tapa Senior Aboriginal Cultural Advisor and the General Manager, Kurlana Tapa Youth Justice Centre.

The DHS response does not comment on the core element of the recommendation, that is, that an annual report on implementation of the Aboriginal and Torres Strait Islander Youth Justice Principle is published. The commitment to consulting the TCV on the most appropriate to report on The Principle's implementation is noted. We note the delay to developing an Aboriginal Visiting Program attributed to COVID and welcome the opportunity to be involved in dialogue about this program proposal in 2022-23. This is one of several comments that have no clear timelines or identified supports. Some initiatives, such as the commitment to meeting the cultural needs of Aboriginal girls and young women, are promising (although we are unclear how embedded or systematised this is). We note the commitment to recruiting and retaining Aboriginal staff and look forward to an evaluation of how successfully this process is implemented over time. TCVU Aboriginal staff observed that through this period, the number of Aboriginal staff at Kurlana Tapa decreased, as did the number of cultural programs/activities. An overriding concern, however, is that activities in this area suffered from general staffing and other constraints throughout 2021-22. For example, given the preponderance of lockdowns and other restrictions, how effective was access to the Cultural Connections Space, including as a place detainees could choose to access of their own volition? This is particularly important given that connectivity between Aboriginal detainees housed in different units has diminished under Covid protocols. Part 4.2 of this annual report notes issues raised with the TCVU by Aboriginal children and young people.

Recommendation 7

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

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

Ongoing.

Programs at Kurlana Tapa were impacted by COVID-19 in 2021-2022. Despite the constraints presented by COVID-19 a range of new programs commenced at Kurlana Tapa in the last year. These include:

- Multicultural Youth SA CALD wellbeing program – a group based cultural program for young men from African backgrounds.
- Sekseed – a series of workshops that offer a holistic approach to life. This is a SACE accredited program that aligns with PLP.
- NRL OzTag – a skills based personal training session based on actual rugby league trainings.
- Balance Choice – a group based program utilising fitness and theatre games to explore topics such as trust, relationships and mindfulness.
- HYPA Cooking – a cooking program with girls and young women at Kurlana Tapa.
- The Beauty Heartist – a program run with girls and young women with the aim of building self-esteem through self-nurturing behaviour.
- Photovoice – a visual research methodology that uses cameras to help participants document, reflect upon and communicate issues of concern.
- Teen mental health first aid – a three-day program supporting young people to develop skills to recognise and respond to friends who may be experiencing a mental health problem or crisis.
- Multicultural Communities Council of SA (MCC)- the Village – a group based cultural program for boys and young men from African backgrounds.
- MCC also provide one on one cultural mentoring for young men from African backgrounds in Kurlana Tapa.
- Red Cross – Save a Mate – a one-day course which provides information around alcohol and other drug emergencies.
- CAMHS – Cultural Catch Up – small group sessions covering topics related to culture.

While COVID and the general staffing crisis impacted negatively upon the delivery of programs and activities, provision remains inadequate.

More and better programs and services are still needed, noting the categories flagged in this recommendation –

- girls/young women
- culture and community
- personal development and self-identification across life domains (including sexual orientation, and gender identity and expression)
- drug and alcohol misuse
- independent living skills
- educational, community and cultural opportunities
- anti-bullying and peer support
- transition to post-detention life.

While activities noted by DHS are welcome, the lack of an overall strategy with accountability and outcome measures remains a problem. Discussion elsewhere in this report draws attention to aspects of service delivery in 2021-22, including with respect to low participation numbers and irregularity of scheduling.

Attachment 7 to this annual report consolidates concerning 2021-22 data about program/activities participation rates and session cancellations that we compiled through our Reviews of Records.

A robust strategy, with associated capacity, is needed to ensure access to programs/activities in a pandemic context, especially should further excessive lockdowns be anticipated.

It is not clear why the systemic response lacked any real technology-based innovation.

Recommendation 8

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

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

Ongoing.

In 2022 DHS Youth Justice Services introduced the Child and Adolescent Intellectual Screening Questionnaire (CAIDS-Q). This seven-item tool screens for possible intellectual disability. This tool aims to support staff to identify children and young people who may require referral for further assessment. In 2021-22 there were range of staff training and development initiatives to support Kurlana Tapa staff working with children and young people with complex needs. These initiatives are as follows: 'Reframe training is an evidence-based staff training program aimed at upskilling frontline professionals who are engaging with young people with Foetal Alcohol Spectrum Disorder and other neuro-divergences. In June 2022 Reframe training was delivered to 37 Youth Justice staff across three, 4-hour, in-person interactive workshops. In 2021 and 2022 the Enhanced Support Team (EST) approach was piloted at Kurlana Tapa, utilising allied health professionals to work alongside youth workers, implementing a more therapeutic approach in the accommodation program. This pilot is ongoing and will be subject to review. Difficulty recruiting and retaining allied health professionals has presented a barrier to progressing the EST pilot. The review of the pilot will consider how best to embed therapeutic practice into the accommodation program at Kurlana Tapa going forward. In 2021-22 a Sensory and Environmental Framework was developed in partnership with the University of South Australia to increase understanding of, and response to, the sensory processing needs of children and young people in custody. A plan to implement this framework into practice at Kurlana Tapa will be developed in the coming months in consultation with key stakeholders.

As noted in last year's annual report, positive work was underway, but a lot more needs to be done.

DHS effort to improve screening processes and staff development and training are positive. So too is the focus on FASD and other neuro-divergences and the Enhanced Support Team approach.

2022-23 implementation of the Sensory and Environmental Framework developed this financial year is positive.

The stated, and important, aim of embedding therapeutic practice within the accommodation program presents an ongoing challenge that will help determine the quality of life for detainees and achievement of the Centre's mission. It needs to be actively supported at all operational and management levels.

Recommendation 9

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

Complete.

In 2021-22 the Kurlana Tapa Case Management Project took place to identify the best model for case management of children and young people in custody. Through this project a decision was made to retain case management of children and young people in custody within Community Youth Justice. This allows children and young people in custody to retain their allocated community case manager. This enables the relationship between a child or young person and their case manager to continue pre, during and post release. DHS Communities and Justice has been working to reduce points of transition between case managers throughout a child or young person's engagement with youth justice services. Through the Kurlana Tapa Case Management Project a range of mechanisms have been established to strengthen communication between the Assessment Case Coordination team and Kurlana Tapa and Community Youth Justice. These include:

- Regular meetings between the Manager, Assessment and Case Coordination and the Supervisor Central Case Management.
- Case Management Conferences involving, Assessment Case Coordination, Community Youth Justice and other stakeholders.
- Secondments of Community Youth Justice staff to Assessment and Case Coordination.

The creation of a new Management position within Kurlana Tapa Assessment and Case Coordination to strengthen communication between teams. Recruitment to this position has not been finalised.

Work in this area continues to progress, with the Kurlana Tapa Case Management Project providing the opportunity for better coordination.

Recommendation 10

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

Complete.

The daily population report includes information about the guardianship status of each child and young person at Kurlana Tapa. DHS provides TCVU with this report.

On 27 July 2022, the Department of Human Services and the Training Centre Visitor jointly executed a Memorandum of Administrative Agreement (MoAA). As per Schedule 1 of the MOAA, the TCV and designated TCVU staff will be provided with the Kurlana Tapa Daily Population list in addition to quarterly data on detention orders, contextual data and records.

Dual Ordered clients and service improvements for these clients will be the preliminary focus of the Youth Justice Executive Steering Group.

The Memorandum of Administrative Agreement between DHS and the TCV was finalised and adopted in 2022. This identifies how both parties will work with each other and has protocols for the request and provision of information and how the TCV will be notified about certain matters.

DHS' commitment that "Dual Ordered clients and service improvements for these clients will be the preliminary focus of the Youth Justice Executive Steering Group" is helpful. Progress with implementation of the SADI Project recommendations will help determine whether the collaborative, cross-departmental approach can work.

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:

- 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;
- 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;
- 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;
- 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;
- 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;
- that the assessment of appropriate accommodation in a training centre will consider the individual cultural identity of Aboriginal and Torres Strait Islander youths;
- that, where necessary, Aboriginal and Torres Strait Islander youths will be provided with interpreters and, where possible, translated documents;
- that the particular health, education and wellbeing needs of Aboriginal and Torres Strait Islander youths are considered and, where practicable, met;
- that officers of the Department actively participate in cultural training and demonstrate culturally respectful engagement;
- 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

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 when ever 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 2021-22

This attachment draws on summary data provided by the Department of Human Services (DHS) for the 2021-22 KTYJC detainee population.

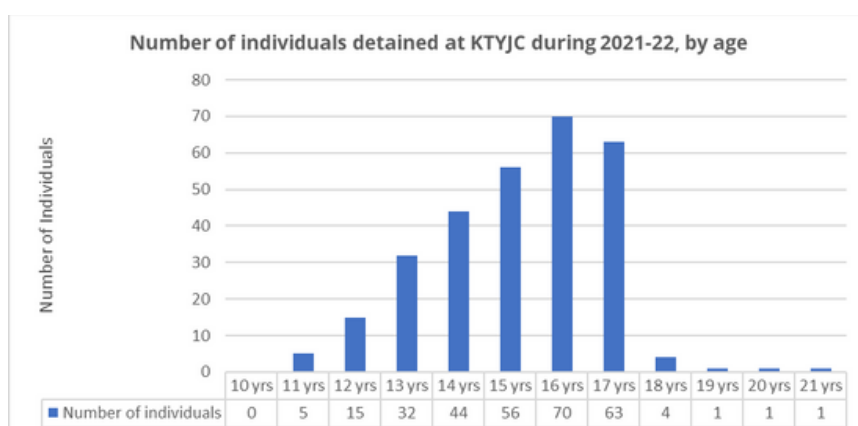
They complement discussion Who we work for – Children and Young People in Custody of the TCV Annual Report 2021-22.

Key data

- The number of children and young people detained at Kurlana Tapa Youth Justice Centre (KTYJC) increased by 14.1 % since the previous reporting year (2020-21). Some groups continue to be seriously overrepresented.
- Aboriginal children and young people – made up 47.3% of individual residents, 47.3% of admissions; and 50.6% of all residents on an average day.
- Girls and young women – made up 24.0% of individual residents, 24.9% of admissions; and 12.4% of all residents on an average day.
- Children and young people in care – made up 28.4% of individual residents, but 38.1% of admissions; and 33.2% of all residents on an average day.
- The very young (10-13 years inclusive) – made up 17.8% of individual residents, 23.6% of admissions; and 4.6% of all residents on an average day.

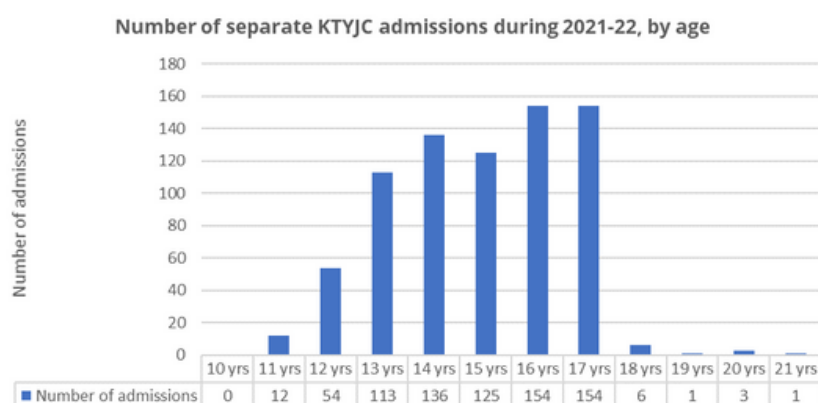
Individual children and young people detained at KTYJC, 2021-22

Number of individuals admitted	Total	% of total
Total individuals	292	100
Number of individuals who identified as Aboriginal	138	47.3
Number of individuals under a guardianship order at the time of their admission	83	28.4
Number of individuals aged 10-13 years (inclusive) at the time of their admission	52	17.8
Number of females	70	24.0



Separate admissions to KTYJC, 2021-22

Separate admissions	Total	% of total
All admissions	759	100.0
Number of separate admissions of residents who identified as Aboriginal	359	47.3
Number of separate admissions of residents under a guardianship order at the time of admission	289	38.1
Number of separate admissions of residents aged 10-13 years (inclusive) at the time of their admission	179	23.6
Number of separate admissions of female residents	189	24.9

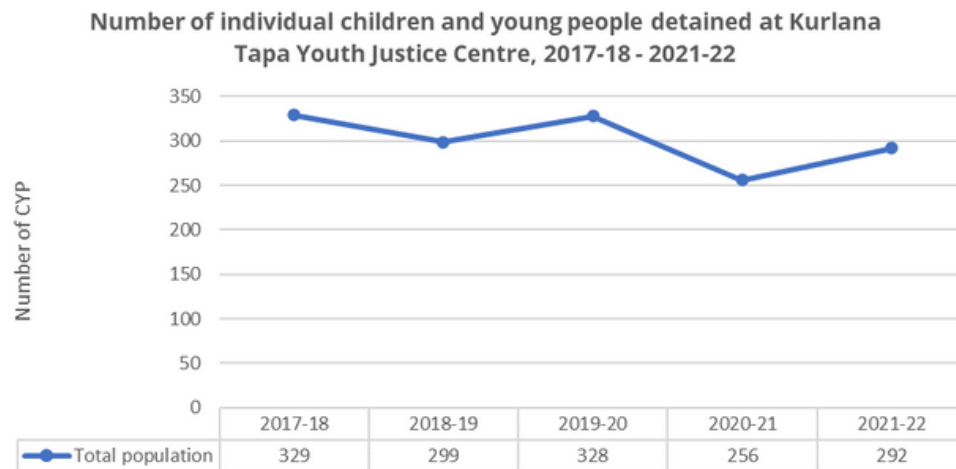


Average daily population KTYJC, 2021-22

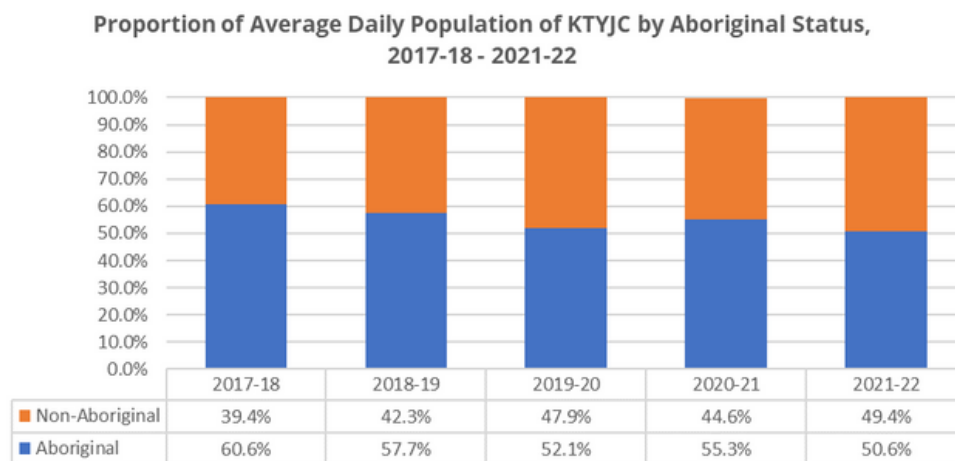
Average daily population	Total	% of total
All residents	31.8	100.0
Average daily number of residents who identified as Aboriginal	16.1	50.6
Average daily number of residents under a guardianship order at the time of their admission	10.6	33.2
Average daily number of residents aged 10-13 years (inclusive) at the time of their admission	1.5	4.6
Average daily number of female residents	3.9	12.4

Trends over time

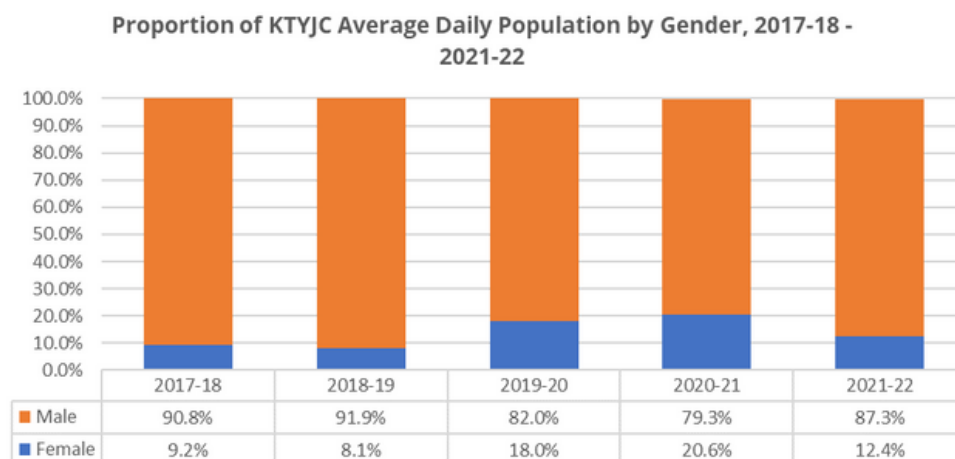
Trends over time: There was a 14.1 % increase in the number of children and young people held in detention, compared to the 2020-21 financial year. However, there has been an overall downward trend in this number since TCV reporting began in 2017-18.



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.

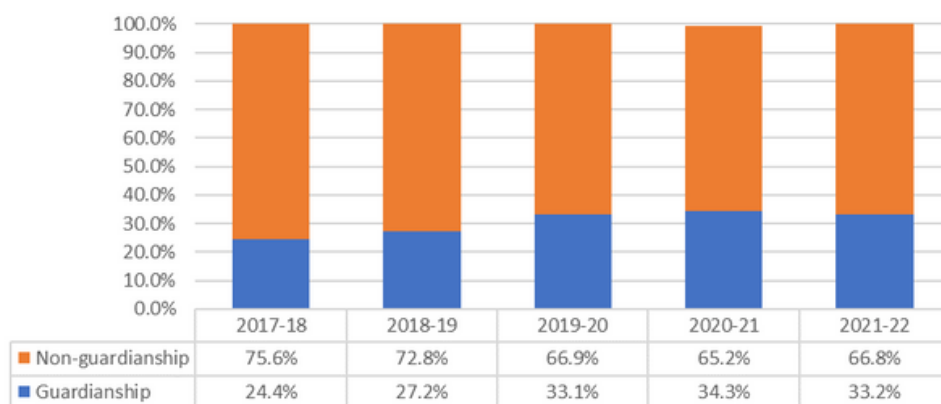


The proportion of girls and young women detained on an average day spiked in 2019-20 and 2020-21. Although there was a significant decrease in this proportion for 2021-22, it remains higher than when TCV reporting began in 2017-18.



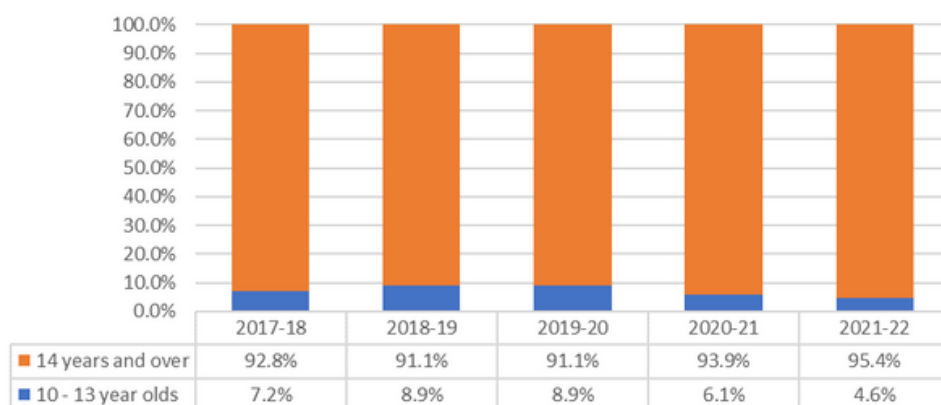
The proportion of children and young people in care who are detained on an average day has increased since TCV reporting began in 2017-18. However, the proportion has been stable for the past three years, with approximately one third of detainees also being under child protection orders.

Proportion of Average Daily Population of KTYJC by Guardianship of the Chief Executive Status, 2017-18 - 2021-22



The average daily population of 10-13-year-olds (inclusive) has declined and is at its lowest proportion of the daily population since TCV reporting began. In both 2020-21 and 2021-22, no 10-year-olds were detained.

Average Daily Population of 10-13 year olds (inclusive) at Start of Admission, 2017-18 - 2021-22



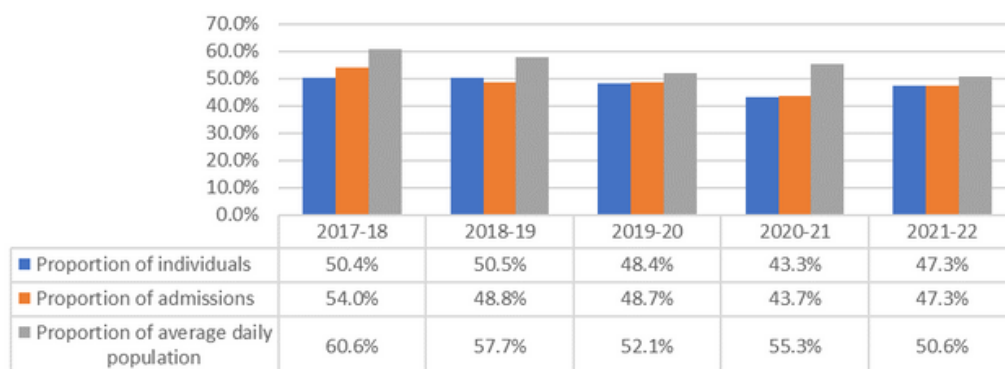
Tracking data over time allows us to follow trends for different population groups.

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.

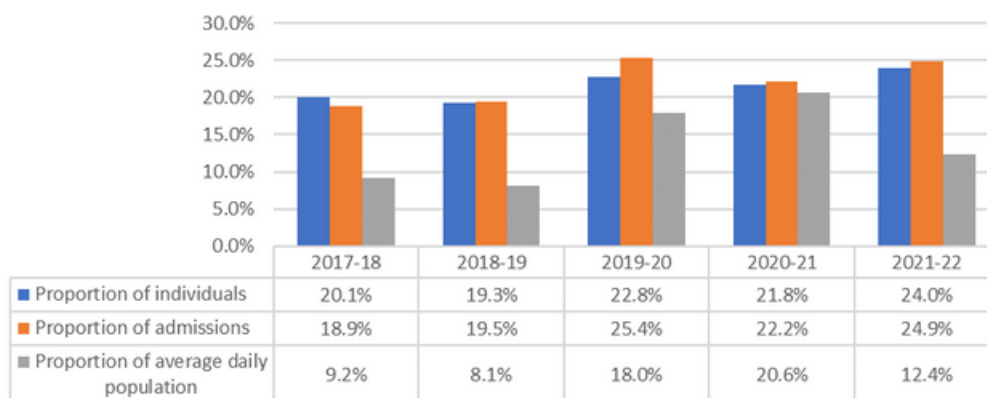
While the number of Aboriginal children and young people as a proportion of the average daily population has fallen by 10.0% since TCV reporting began, the number of individuals as a proportion of young people detained has only fallen by 3.1 %. This indicates greater progress towards reducing the number of repeat admissions and length of time spent in detention, than progress towards reducing the rate of Aboriginal children and young people who are detained compared to the total child population.

As a proportion of the average daily population, girls 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
Aboriginal children and young people detained at Kurlana Tapa Youth
Justice Centre, 2017-18 - 2021-22**

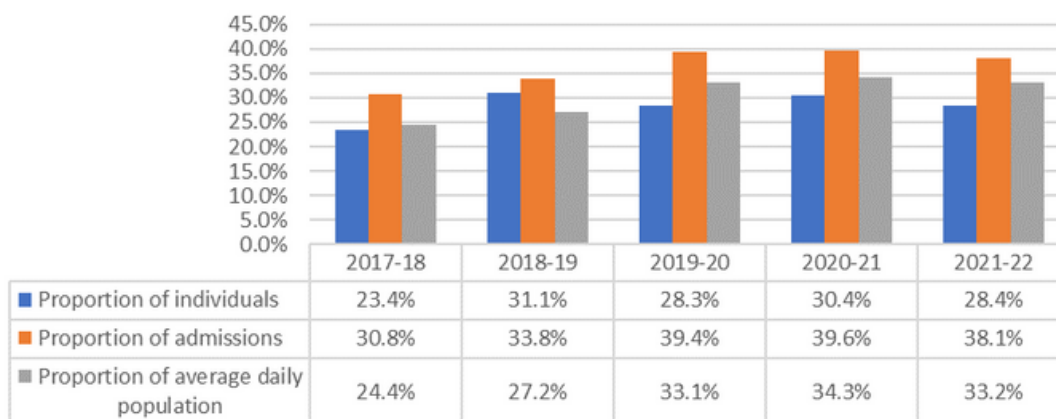


**Proportion of individuals, admissions and average daily population for
girls detained at Kurlana Tapa Youth Justice Centre, 2017-18 - 2021-22**



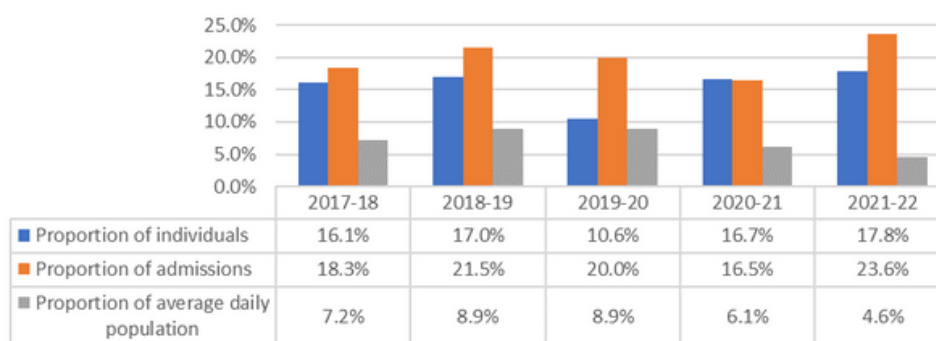
Over time, children and young people in care consistently have higher KTYJC admission rates and constitute a higher proportion of the average daily population (except for 2018-19). This suggests that this cohort have a higher rate of multiple KTYJC admissions and may be held in detention for longer.

**Proportion of individuals, admissions and average daily population
for children and young people in care detained at Kurlana Tapa
Youth Justice Centre, 2017-18 - 2021-22**



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.

**Proportion of individuals, admissions and average daily population
for children and young people aged between
10-13 years (inclusive) detained at Kurlana Tapa Youth Justice
Centre, 2017-18 - 2021-22**



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

ATTACHMENT 5

Values for work within the TCV Program from the 2022-2025 OGCYP Strategic Plan

OUR VALUES

In our thoughts, interactions and actions we will be guided by the following:

COMMITMENT

This means we:

- Are caring and tenacious in our advocacy for children and young people
- Place the best interests of children and young people at the very centre of our work
- Ensure that our work is always informed by the voice of children and young people and encourage others to take the same approach

RESPECT

This means we:

- Create safe and trustworthy spaces for children and young people to be heard
- Listen carefully and respect their voices as experts in their own lives
- Respect the unique perspectives and cultures of Aboriginal and Torres Strait Islander people and continue to grow our understanding of our shared history
- Take active steps towards true reconciliation and consider how to achieve cultural safety in everything we do
- Embrace diversity and listen with curiosity to alternative perspectives
- Remain respectful of our colleagues and the challenges they face working in the system

COURAGE

This means we:

- Take strength from the responsibility, independence and reach of our office
- Notice and name system failures without fear or favour
- Act ethically and decisively and seek timely action and accountability from others
- Remain optimistic that we can influence change for children and young people.

ATTACHMENT 6

Recommendations, SADI Report 2022

Final Report of the South Australian Dual Involved Project Children and young people in South Australia's child protection and youth justice systems (TCV and Guardian, June 2022)

Recommendation 1 – Bolstering independent oversight and advocacy

Parliament established a visitor scheme to ensure independent oversight of children and young people living in residential care in 2017, as set out in the Children and Young People (Safety) Act 2017. In 2022 modest funding has been allocated to OGCYP to establish and partially commence this scheme. The SADI Project affirmed the need to have specialist, and relatively intensive, monitoring activated in this sector.

That the South Australian government provide the Office of the Guardian for Children and Young People with:

1. The staff and other resources reasonably needed to carry out the functions of the role of Child and Young Person's Visitor, as are legislated in s118 of the Children and Young People (Safety) Act 2017; and
2. The resourcing to establish a specialist Dual Involved Senior Advocate position to provide individual advocacy and systemic oversight for dual involved children and young people that –
 - Operates across government and especially in relation to the child protection, youth justice and health (including mental health) systems; and
 - Must pay particular attention to the needs of Aboriginal children and young people

Recommendation 2 – Bolstering independent oversight and advocacy

Dual involved children and young people often expressed that they did not feel safe in residential care placements. These serious safety concerns require the South Australian government to act with greater urgency to implement key recommendations from the Nyland Report.

That DCP accelerate implementation of Nyland Report recommendations 145 and 149 and provide quarterly implementation progress reports to OGCYP.

Recommendation 3 – Assessment of needs and potential

Assessment of the needs and potential of dual involved children and young people did not always occur or sometimes happened too late, when they were about to age out of care. As a result, opportunities to intervene early – which may have diverted youth justice involvement – were missed.

3.1 That the South Australian government commission an independent review of DCP and DHS files to investigate and determine:

- a. The rate of compliance with existing policies regarding health, disability and cultural support needs assessments for children and young people in care, including the extent to which assessments occurred within the requisite timeframes.

The audit should specifically consider policies that address the:

- i. Cultural needs of Aboriginal children and young people;
- ii. Disability needs of children and young people, including access to the NDIS and implementing NDIS plans; and
- iii. Health and development needs of children and young people, including mental and psychosocial health.

- b. The extent to which case plans appropriately incorporate identified strategies, applicable placement principles, access to services and other cultural and therapeutic supports;
- c. The extent to which identified strategies, applicable placement principles, access to services and other cultural and therapeutic supports are implemented; and
- d. Targeted recommendations to improve compliance with policies regarding assessment, case planning and implementation of health, disability and cultural support needs.

3.2 That DCP develop and incorporate the following into the assessment and planning procedures for children and young people in care:

- a. Culturally appropriate tools to identify risk factors for offending behaviours;
- b. Targeted therapeutic and other interventions to mitigate these risks and divert potential youth justice involvement; and
- c. Clear placement principles to avoid placing children and young people with an identified risk of offending behaviours in criminogenic environments.

Recommendation 4 – Assessment of needs and potential

Aboriginal children and young people are seriously overrepresented in both the child protection and youth justice systems, and feature within the dual involved population. Several individuals made important contributions to the SADI Project, including through personal interviews. It will be important to evaluate the implementation of the current recommendations with respect to this large sub-population of the dual involved cohort.

That DCP deploy additional effort and investment to support connection to culture for Aboriginal children and young people living in residential care, paying particular attention to the causes of, and potential consequences for, those who have offending behaviours or whose behaviours may risk involvement in the youth justice system.

Recommendation 5 – Enabling effective care and support

The residential care environment is characterised by skilled staff shortages, limited placement options and placement decision-making that does not always respond to the child or young person's best interests. Placement in residential care disproportionately leads to youth justice involvement. Children and young people deemed 'complex' may be offered little scaffolding or support within their placement to address or manage their behaviour. Dual involved children and young people told us that residential care staff often were not equipped to manage their behaviour and relied on calling the police as a core behaviour management strategy.

5.1 That DCP provide the resources, training and framework necessary to enable residential care staff to provide the best possible care and, in particular to ensure that staff are appropriately qualified and staff ratios are sufficient to respond to the complex support and management needs of the residential care population, as a whole

5.2 That the resources, training and framework at 5.1 should include:

- a. Specialist mental health, disability, and drug and alcohol training for residential care staff to improve their capacity to identify and respond to behaviour associated with factors such as mental ill health or substance misuse;
- b. An accreditation scheme which sets specific competency and training benchmarks for staff who work directly with a category of dual involved children and young people who have exceptionally complex support and management needs;
- c. Reviewing the appropriate classification and remuneration for relevant accredited DCP staff members under the relevant industrial instrument; and
- d. A staffing model that incorporates requirements for designated positions to hold or undergo the above accreditation, supported by appropriate roster arrangements.

Recommendation 6 – Reviewing and analysing police involvement in residential care

The SADI Project confirmed that police are often called to attend residential care properties for incidents that should be managed as behavioural, not criminal, matters. These callouts create and normalise engagement with the youth justice system. Other jurisdictions are more judicious about recourse to police intervention based on clear protocols to manage the occasional need for such intervention.

Improved data collection, analysis and reporting in relation to critical incidents in residential care is urgently required to identify and promote good preventive practice and child focussed intervention

6.1 That DCP establish a system to specifically record and monitor critical incidents in residential care which result in police involvement or attendance, in order to –

- a. Track and analyse the prevalence, severity and management of incidents across individual residential care facilities; and
- b. Identify and mitigate causal factors.

6.2 That DCP urgently review and address the practice of relying on police intervention for behavioural management.

Recommendation 7 – Reducing police involvement in residential care

7.1 That DCP and SAPOL develop a joint protocol to govern the procedure, purpose and required benchmarks for requesting police attendance and response at residential care facilities, with the objective of:

- a. Minimising unnecessary resident contact with the youth justice system; and
- b. Reducing the incidence of charging children and young people living in residential care with property offences.

7.2 That the above protocol be monitored in consultation with:

- a. Children and young people with an experience of residential care;
- b. A representative Aboriginal Community-Controlled Organisation; and
- c. The Office of the Guardian for Children and Young People.

Recommendation 8 – Restrictive practices in residential care

Some of the young people interviewed referred to causing property damage due to being unable to get outside. Some residential care units lock children and young people inside that facility, at times, to minimise the risk of them going missing. Unless properly authorised as a restrictive practice of last resort, supported by planned behaviour support plans and interventions to reduce its necessity, such a practice breaches a child's fundamental right to liberty and security of person and may constitute arbitrary detention.[1]

[1] UN General Assembly, *International Covenant on Civil and Political Rights*, 16 Dec. 1996, art 9.1.

8.1 That DCP investigate the extent and circumstances under which the restrictive practice of locking children and young people inside, or otherwise depriving them of liberty within a residential care unit, is occurring.

8.2 That DCP review policies and staff training to ensure residential care staff are provided with adequate training, support and guidance to implement alternatives to restrictive practices.

Recommendation 9 – Accountability

Accurate data collection, analysis and reporting is required to identify and respond to key population groups, trends and system pressure points, in order to provide a focus for systemic improvement and accountability. It should be possible to better understand and account for the circumstances of dual involved children and young people and thus improve efforts to support and divert them from the youth justice system.

9.1 That DCP and DHS collaborate with other relevant government departments and agencies (such as SAPOL, the Courts Administration Authority, Education and SA Health) to undertake improved collection of data and other information pertaining to the circumstances of dual involved children and young people. Data capture should enable analysis of the following matters for all children and young people in care:

- a. The reasons for and outcomes of police attendance at care placements;
- b. Instances and periods of detention in police vehicles and cells;
- c. Access to diversion;
- d. Access to bail;
- e. Bail conditions and breach of bail offences;
- f. The practice of 'over-charging';
- g. Charges that relate to conduct occurring at the care placement;
- h. Charges that relate to a child or young person being missing from placement; and
- i. Sentencing practices and outcomes.

9.2 That the data should be disaggregated to enable reporting regarding children and young people according to their gender and the following characteristics:

- a. Aboriginal children and young people;
- b. Children and young people with disability; and
- c. Placement type, including residential care.

Recommendation 10 – Vehicles as places of detention

South Australian children and young people in custody continue to be vulnerable while detained in vehicles. Although the TCV/Guardian has raised this publicly several times, the South Australian government has yet to address the fact that there is no independent oversight of what happens in transit (be that under the authority of DHS/Kurlana Tapa, SAPOL, DCP, SA Health or a private contractor).

That the SA parliament legislate to provide the Training Centre Visitor with the mandate and resources to enable independent oversight of children and young people when they are compulsorily detained in transport vehicles under the authority of DHS/Kurlana Tapa, SAPOL, DCP, SA Health or a private contractor, including in the context of the commencement of the Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in South Australia.

Recommendation 11 – Children and young people in police cells

A matter commonly raised by the dual involved children and young people who were interviewed was their experience of being held in general police cells, especially in the City Watchhouse. These are adult focussed facilities, not geared to holding and managing custody of children and young people. This practice should be reviewed urgently to ensure that minors are not exposed to the adult custodial environment and management practices, including strip searching.

- 11.1 That the South Australian Government undertake an urgent independent review of the practice of holding children and young people in police facilities to ensure that any such detention only occur in accordance with strict compliance with child safe principles.
- 11.2 That the Training Centre Visitor be granted statutory oversight responsibilities for police facilities that function as a place of detention for children and young people, including in the context of the commencement of the Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in South Australia.

Recommendation 12 – Bail and remand

All dual involved children and young people interviewed for the SADI Project reported being in detention for breaching their bail conditions, not their primary alleged offence, and these breaches almost always related to placement in residential care (e.g. missing their curfew, or not residing at the placement which functioned as their bail address). Many reported not feeling safe or cared for at that placement, with some frequently going missing to spend time with their family.

Some, while detained at KTYJC, were advised that their placement in the community had been closed (to enable a different child or young person to use the room), their belongings packed up, and that they would move to a different placement upon release. This created stress and exacerbates placement instability.

That DCP, SAPOL and the Youth Court collaborate to investigate and address the relationship between bail-related offences, residential care, remand and detention by –

- a. Reviewing bail and remand practices to identify discriminatory impacts for children and young people in residential care. The review should specifically consider:
- i. Curfew and non-association bail conditions;
 - ii. The extent to which bail is denied due to unsuitable DCP placements and/or on DCP's request;
 - iii. Cautioning or charging a child or young person with the offence of breach of bail; and
 - iv. Sentencing for the offence of breach of bail.
- b. Developing alternative diversionary responses for children and young people who breach bail for offences committed while in residential care (including to prevent the subsequent impact of remand on placement stability).

Recommendation 13 – Supporting children and young people in court

Good practice suggests that personal support should be available from a responsible person whenever a dual involved child or young person attends Court, just as we would expect a parent to do for a young person who lives with family. DCP representatives, or other carers, however, are not always present, so there may be no support to help a child or young person understand what is happening to them.

The majority of dual involved children and young people who participated in interviews expressed that they did not feel supported by DCP during their involvement in Youth Court. Some felt that a lack of DCP support contributed to being denied bail or sentenced to detention.

That DCP deploy additional resources and efforts to attend court as the corporate parent for children and young people in care.

Recommendation 14 – A specialist DCP 'dual involved' team

Dual involved children and young people and youth justice and other workers expressed diverse views about the responsiveness and support they receive from DCP social/case workers. While some were very satisfied, a common view was that it can be very difficult to contact DCP case workers, get necessary information from them or have necessary discussions in a timely way, if at all (especially if the worker is new to DCP or is newly assigned to that child or young person). The overall view was that some DCP workers often lack resources and sufficient understanding of youth justice processes to be able to support their clients to navigate the youth justice system effectively. A specialist team within DCP would build expertise and facilitate collaboration with DHS and other agencies, to help prevent children and young people in care from entering (or re-entering) the youth justice system and to better support them should they offend.

The SADI Senior Advocate particularly noted that transition-from-care plans are generally poorly executed, a problem compounded for those detained at Kurlana Tapa (who may experience difficulties in accessing services while in detention).

- 14.1 That DCP establish a specialist 'dual involved team' with the role of –
- a. Providing, expert and intensive support to children and young people involved in the youth justice system;
 - b. Functioning as a central contact point for other relevant agencies and service providers for dual involved children or young people;
 - c. Ensuring that placements are available for dual involved children and young people when they are released from Kurlana Tapa;
 - d. Coordinating appropriate bail addresses and bail support to reduce the incidence of dual involved children and young people breaching bail conditions; and
 - e. Providing intensive case management to facilitate better access to established mainstream service providers and support while young people are within Kurlana Tapa.
- 14.2 That the specialist DCP dual involved team include Aboriginal designated positions.

Recommendation 15 – Improved transition planning

The SADI Project noted poor transition processes both when children and young people were released from KTYJC into residential care, and when they turned 18 (and were no longer under child protection orders). Transition from care planning appears often to be ad hoc and rushed, although the transition is foreseeable. In some cases this causes children and young people extreme anxiety about their future and can lead them to feel fatalistic that they will inevitably 'graduate' into the adult corrections system.

Service providers reported that last-minute or poorly communicated placement decisions for dual involved children and young people upon their release could lead to poorer service access, planning, and support. Despite much good work, this can undermine the likelihood of successful disengagement from the youth justice system.

- 15.1 That DCP take primary responsibility for planning all transitions out of detention for dual involved children and young people.
- 15.2 That DCP collaborate more effectively with DHS and other relevant agencies to plan for transitions by –
- a. Developing timely plans for transitioning back into the community and/or transitioning from care, in consultation with dual involved children and young people;
 - b. Recognising the potentially disruptive effects of transitioning out of detention into community living or 'ageing out' of care;
 - c. Retaining placements that are valued by detained children and young people (to maintain accommodation stability and minimise disruptive moves); and
 - d. Co-ordinating interventions and services that provide dual involved children and young people with care, rehabilitation, support and development opportunities.

