



*DON DALE YOUTH DETENTION CENTRE*

# **Monitoring Report**

Visit Date: 19/02/19 to 21/02/19

Report Date: 2 May 2019

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## Introduction

1. Between 19-21 February 2019, Senior Investigation and Monitoring Officers from the Office of the Children's Commissioner (OCC) conducted an arranged monitoring visit to the Don Dale Youth Detention Centre (DDYDC) (the February visit). The monitoring visit was conducted pursuant to the OCC's monitoring framework (Appendix A).<sup>1</sup>
2. Based on themes identified in complaints received by the OCC throughout 2018, the February visit examined the following issues in youth detention:
  - a. Separation procedures
  - b. At risk procedures
  - c. The availability of recreational programs
  - d. The availability and appropriate use of mental health services in the admissions process
  - e. The availability of education
3. In relation to a-d above, the OCC monitored the period 1-31 January 2019. However, in relation to e, due to school holidays in early January, the monitored period was 15 January to 15 February 2019.
4. During the February visit there were 16 young people being held at DDYDC. All of the young people at DDYDC were male and 15 of the 16 (94%) were recorded as Aboriginal. Six were sentenced and 10 were being held on remand. The Chief Executive Officer of Territory Families (TF) had parental responsibility for six of the young people.
5. Every young person had the opportunity to be interviewed by the Senior Investigation and Monitoring Officers. Of the 16 young people in DDYDC during the February visit, nine young people chose to participate in a discussion. The young people we spoke to were invited to comment on all of the domains contained in the OCC's monitoring framework. Where their views related to the domains set out at above, at paragraph 2 a-e, they have been incorporated into this report. Where their comments related to subjects outside of those domains, the OCC assisted the young people to resolve those issues directly with TF.

## The Royal Commission into the Protection and Detention of Children in the Northern Territory

6. In November 2017 the *Royal Commission into the Protection and Detention of Children in the Northern Territory* (the Royal Commission) released its final report. The report contains 227 recommendations, 58 of which relate directly to youth detention in the Northern Territory.

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<sup>1</sup> The February visit was the first monitoring visit conducted by the OCC pursuant to this framework. As such the framework will be subject to review at the completion of the process.

Combined, the recommendations are designed to facilitate fundamental overhaul of the Northern Territory's youth justice system.

7. On 1 March 2018 the Northern Territory Government (NTG) announced its acceptance of the intent and direction of all recommendations within the report that related to the Northern Territory. The most recent official update of the NTG's progress in implementing the recommendations was released in November 2018 and is titled 'Safe, Thriving and Connected: Generational Change for Children and Families' (Safe, Thriving and Connected).<sup>2</sup>
8. While positive and important changes have been made in relation to youth detention in the Northern Territory since the completion of the Royal Commission, there is still work to be done to ensure youth detention serves as a therapeutic intervention in the lives of young people who enter the facilities.
9. The recommendations of this report are designed firstly, to address any immediate risks to the wellbeing of young people in detention and secondly, to complement the reform framework identified in the report of the Royal Commission and the reform agenda committed to by NTG.

## Legislative Framework

10. In order to promote improved oversight and accountability in the youth detention and child protection systems in the Northern Territory, the Royal Commission recommended that the powers and functions of the OCC be expanded, to create a Commission for Children and Young People. To date, no changes have been made to the *Children's Commissioner Act 2013* (the Act).
11. Currently there is uncertainty in the Act regarding whether the OCC has the power to conduct site visits to detention centres in order to carry out monitoring activities. Given that uncertainty, the OCC sought the consent of TF to carry out the February visit. We thank TF for their cooperation in allowing OCC staff access to DDYDC and assisting staff to navigate and access documentary records.
12. However, legislative reform giving the OCC free and unfettered access to places of youth detention is critical to the ongoing effectiveness of the monitoring program.

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<sup>2</sup> See 'Safe Thriving and Connected: Generational Change for Children and Families' (First progress report, November 2018).

## Findings and Recommendations

### Separation

13. The separation of young people in detention is governed by sections 155A, 155B, and 156 of the *Youth Justice Act*, regulation 72 of the *Youth Justice Regulations* and *Youth Justice Policy Determination 4.11: Separation*.
14. The harmful effects of separation are well-known and have been widely reported. The dangers are particularly acute for certain sub-sections of the population, including children<sup>3</sup> and Aboriginal people.<sup>4</sup> On that basis, the legislative, regulatory and policy framework surrounding the use of separation in youth detention in the Northern Territory is designed to ensure young people are only subject to separation as a last resort, and if they are subject to separation, robust protective mechanisms are in place to minimise the harm caused. Separation must not be used as a punitive measure.<sup>5</sup>

#### Findings:

15. During January 2019 there were nine instances of separation involving seven individual young people. Overall, the OCC's monitoring visit showed consistent compliance from TF in relation to the legislative, regulatory and policy framework governing the separation of young people in detention. Significantly, all except one instance of separation lasted less than two hours.

#### Areas of Concern:

16. Despite compliance with the governing framework, during the OCC's monitoring visit the following areas of concern in relation to separation were identified:
  - a. Record keeping

Effective and accurate record keeping in relation to separation has been an ongoing problem at DDYDC.<sup>6</sup> Although the Senior Investigation and Monitoring Officers who undertook the monitoring visit were able to locate sufficient records to assess TF's compliance with the substantive legislative, regulatory and policy framework surrounding separations, there were shortcomings in the record keeping processes. Specifically, the records were not stored in a central 'journal' or 'register'; the records contained minimal evidence of interaction with, as opposed to observation of, young people subject to separation; and some records were kept on undated, unnamed loose pieces of paper.

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<sup>3</sup> Elizabeth Grant, Exhibit No. 636.005, *Precis of Evidence, Royal Commission into the Protection and Detention of Children in the Northern Territory*, 29 June 2017, 125.

<sup>4</sup> Commonwealth, *Royal Commission into Aboriginal Deaths in Custody, National Report (1991) vol 3, rec 181*.

<sup>5</sup> *Territory Families, Youth Justice Determination 4.11 – Separation*.

<sup>6</sup> See, eg, Northern Territory, *Royal Commission into the Protection and Detention of Children in the Northern Territory, Final Report*, vol 2A, 292 (Royal Commission Report); Northern Territory, 'Kendrick Review: Review of Record Arrangements in Youth Detention Centre' (July 2018).

b. Finalising separation due to Lock Down commencing

Of the nine instances of separation that occurred in January 2019, six concluded because the evening Lock Down commenced.<sup>7</sup> Lock Down refers to when each child is locked into their cell. During January Lock Down generally occurred between 6:30pm and 7:30am, and for two 30 minute periods each day.

The records kept by TF in relation to separation do not contain sufficient information to demonstrate that the needs of each young person were considered when separation was terminated.

The OCC is concerned that if young people are demonstrating behaviour that warrants their separation pursuant to s155A of the *Youth Justice Act* (YJA), immediately terminating the protections that s155A attracts when Lock Down commences may place these young people at risk. This is especially so given:

- the young people would then spend a further 13 hours alone in their cell on top of the time that they have spent in separation; and
- during separation young people are entitled to a variety of therapeutic services to assist them to regulate their behaviour, deal with the situation that led to their separation and re-integrate with the other young people in detention. The commencement of Lock Down does not indicate that the young person has had the necessary therapeutic interventions to warrant the removal of the protections set out in section 155B of the *Youth Justice Regulations*.

c. Extended periods of lockdown

TF records revealed that throughout January 2019 young people detained in Don Dale were regularly in Lock Down for 14 hours each day, including 13 hours overnight and two 30 minute periods throughout the day. TF's policy requires that young people spend a minimum of 12 hours per day outside of their room unless they have been separated. Records demonstrate that young people who spend over 12 hours in their cell as a result of extended Lock Down are not treated as 'separated' by TF and therefore do not enjoy the protections articulated in section 155B of the YJA.

## RECOMMENDATIONS

- 1. Territory Families design and implement a record keeping system relating to separation that is compliant with legislative and regulatory requirements.**

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<sup>7</sup> It is noted that these six instances all occurred simultaneously as they arose out of the same incident.

- 2. Territory Families develop and articulate in policy an approach to managing young people who are subject to separation when 'Lock Down' commences. That policy should include the provision of ongoing therapeutic intervention if necessary and provision for the young person to have interaction with others and time out of their cell between separation and 'Lock Down'.**
- 3. Territory Families immediately review staffing arrangements, including staff numbers and shifts, in an effort to design a roster that despite the need for staff breaks, enables young people in DDYDC to spend a minimum of 12 hours outside of their cells each day.**

## At Risk

17. The at risk process in youth detention is governed by section 162 of the *Youth Justice Act*, Division 3 of the *Youth Justice Regulations* and *Youth Justice Policy Determination 5.0: Young People at Risk*. TF has also developed *Procedure: Identifying and Managing Young People at Risk* and *Terms of Reference: At Risk Assessment Team*. The Department of Health (DoH) manages at risk processes in accordance with their *Youth 'At Risk' Youth Justice Procedure*.
18. Research into the mental health of young people in detention around Australia demonstrated that over 75% had one or more diagnosable psychiatric disorders.<sup>8</sup> 'Suicide risk factors are more prevalent among children and young people who are detained than in the general population'.<sup>9</sup> The at risk process is designed to ensure good practice in the identification, response and management of young people who are at risk of self-harm or suicide.

## Findings

### *Background*

19. When a young person is declared at risk, according to the above governance materials, TF should immediately implement the 'Emergency Management Protocol' (EMP). The EMP is designed to remove any immediate risk of harm to the young person while an individualised response can be planned and implemented. Once a young person is declared at risk, the Superintendent of the centre must immediately refer them to a medical practitioner. Generally, the young person must be seen by a medical practitioner within 24 hours of being declared at risk in order to confirm or cancel the at risk status. If the at risk status is confirmed, a Psychiatric Registrar must formulate and document an 'Individual Management Plan' (IMP).

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<sup>8</sup> Transcript of Proceedings (*Royal Commission into the Protection and Detention of Children in the Northern Territory*, Stuart Kinner, 23 March 2019), 1736.

<sup>9</sup> Transcript of Proceedings (*Royal Commission into the Protection and Detention of Children in the Northern Territory*, Stuart Kinner, 23 March 2019), 1735.

TF refer to IMPs as 'At Risk Management Plans'.<sup>10</sup> IMPs should be recorded on the Integrated Offender Management System (IOMS) by a Youth Justice Officer (YJO). That IMP is in place until the young person and the IMP is reviewed by the At Risk Assessment Team (ARAT).

20. The ARAT, according to DoH policy, should be comprised of the Superintendent of the detention centre (or person in charge), Psychologist/case manager, Forensic Mental Health Team clinician and Primary Health Care medical practitioner. According to TF policy, the ARAT should be comprised of a member of youth detention operations, a member of the youth detention Case Management Assessment and Throughcare Services Team, a medical practitioner and any other relevant health professionals. The ARAT must meet daily from Monday to Friday if a young person is assessed as at risk. Though there is some difference in the composition of the ARAT as understood by TF and DoH respectively, it is clear that the ARAT is intended to be a multidisciplinary team responsible for ensuring that young people placed at risk are managed and supported in a safe and therapeutic manner. Any amendments made to the IMP by the ARAT should be recorded on IOMS. It is primarily YJOs who practically operationalise the IMP in terms of face-to-face contact with the young person.
21. The report of the Royal Commission raised serious concerns in relation to the way young people who were declared at risk had been managed, finding that at risk procedures adopted in youth detention centres in the Northern Territory in some instances were likely to exacerbate the distress of a child or young person rather than prevent serious harm.<sup>11</sup> Some of the young people who gave evidence to the Royal Commission described their experiences at risk as identical to their experiences of being separated as punishment.<sup>12</sup> Experts who gave evidence to the Royal Commission similarly described the approach to at risk placements as punitive as opposed to therapeutic.<sup>13</sup> Recent investigations conducted by the OCC suggest this is still a concern.
22. The operation of the ARAT is the centre-piece of TF's pivot away from an at risk procedure that exacerbates a young person's distress and toward an at risk procedure that manages a young person in distress in a safe and therapeutic manner. The design of the ARAT – a collaborative, multidisciplinary and professional care team for young people at risk – represents a good practice. However, the records considered by the OCC during the February visit did not demonstrate that the operation of the current at risk processes and procedures, including the operation of the ARAT, are currently fulfilling their purpose.

### *The February Visit*

23. The OCC's monitoring visit showed inconsistent compliance in relation to the legislative, regulatory and policy framework governing at risk episodes of young people in detention.
24. During January 2019 there were six instances of at risk placements involving four separate young people. In all instances the EMP was implemented immediately by TF and in all instances

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<sup>10</sup> At Risk Management Plans and Individual Management Plans are both referred to throughout this discussion as IMPs for clarity. It is the OCC's understanding of TF policy and procedure and the legislative framework, that in practice that these two titles refer to the same document.

<sup>11</sup> Royal Commission Report, vol 2A, 373.

<sup>12</sup> See, eg, Royal Commission report, vol 2A, 366.

<sup>13</sup> Royal Commission Report, vol 2A, 368.

TF complied with the requirement of making observations of the young person at risk every 15 minutes. Similarly, all young people who were placed at risk were seen by a medical practitioner within 24 hours. The importance of these aspects of managing young people at risk should not be understated. They are critical to ensuring young people do not carry out acts of self-harm while at risk. TF's consistent compliance with these aspects of the at risk procedure is positive.

25. However, the February visit revealed that neither TF nor DoH has properly embedded in practice the aspects of their respective policies and procedures that have the capacity to transform the focus of at risk procedures from simply preventing acts of self-harm, to effective therapeutic intervention. In particular, the February visit raised the following three concerns:

a. Shortcomings in IMPs

The *Youth Justice Regulations* set out that when a young person is declared at risk, the EMP must be immediately operationalised. The EMP is not designed to serve a therapeutic purpose. It is designed to ensure a young person cannot harm themselves in the time it takes for TF to arrange for them to be seen by a medical practitioner. The EMP is only supposed to be operational until an IMP is formulated for the young person.<sup>14</sup> The medical practitioner who assesses the young person is responsible for formulating and documenting the IMP.

The *Youth Justice Regulations* specify that the IMP must be culturally appropriate and must be informed by consultations with people who have relevant knowledge of the young person and the people who are likely to play a key role in the management of the young person.<sup>15</sup> The regulations demonstrate that the IMP should function as a holistic, therapeutic plan to promote the wellbeing of the young person.

The IMPs reviewed by the OCC simply recommended the ongoing application of the EMP when the relevant young person returned to DDYDC from the Royal Darwin Hospital (RDH), rather than containing meaningful information on how DDYDC staff should best manage the young person in distress. This reliance on the EMP, rather than designing a robust IMP, represents a missed opportunity in terms of ensuring young people are treated in a therapeutic manner when they are at risk of self-harm.

b. The operation of the ARAT

The ARAT must meet each week day to review the IMP developed when a young person has been confirmed as at risk by a medical practitioner. It is a medical practitioner who is ultimately responsible for updating the IMP, the ARAT should consult with people who have knowledge of the young person or who will likely play a role in their care, such as parents and caregivers. The ARAT should provide advice regarding:

- frequency of recommended observations;
- recommended activities that the young person should participate in;
- whether the young person must be dressed in rip-proof clothing;
- what items the young person must be allowed in their possession;

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<sup>14</sup> *Youth Justice Regulations*, r 42(4) & (5).

<sup>15</sup> *Youth Justice Regulations*, r 43(2) & (3).

- how a young person should be accommodated (single room or with another young person); and/or
- resolution of the at risk placement.

The ARAT should also ensure the IMP is culturally appropriate and considers a range of social and cultural issues.

The OCC was unable to meaningfully assess the operation of the ARAT during the February visit. Details of the operation of the ARAT should be located in a 'red at risk file' held by TF as well as on IOMS. There was no record relating to the functioning of the ARAT in either of those locations.

The OCC was able to access notes of ARAT meetings relating to one young person. Those records were only held by DoH. While it is not possible to make findings about the operation of the ARAT based on records relating to one at risk placement, it was clear that considerable efforts were made to ensure the young person was quickly and safely re-integrated into the general DDYDC population. However, there was no record of discussion relating to attempts to notify or involve family. Nor was there a record of an attempt to design a culturally informed plan.

c. Inconsistent communication and record keeping

According to TF policy, 'all information relevant to the identification, response, assessment and management of a young person at risk is required to be entered onto IOMS', including records of the ARAT meetings and relevant decisions and IMPs. As well as all information being stored on IOMS, TF policy requires that a red at risk hard file is to be maintained. 'The red at risk file is created so that information from IOMS can be easily transported if the young person needs to be escorted from the youth detention centre to a hospital or external health facility.'<sup>16</sup>

The February visit demonstrated shortcomings in the record keeping practices surrounding at risk procedures. The fundamental problem is that there is no complete record relating to a young person at risk stored in a single place. This compromises the care provided to young people as the people interacting with them, primarily YJOs, are not necessarily able to access and review the most up-to-date, detailed version of the IMP.

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<sup>16</sup> *Territory Families Procedure: Identifying and Managing Young People At Risk*, p 13.

## RECOMMENDATIONS

4. **Territory Families and the Department of Health collaboratively review the TF *Youth Justice Determination 5.1 – Identifying and Managing Young People at Risk* and the DoH Youth 'At Risk' Youth Justice Procedure with emphasis on ensuring consistency between the policies.**
5. **Territory Families and the Department of Health collaboratively review practice surrounding the development of Individual Management Plans with an emphasis on promoting greater information sharing and consultation with family, where possible.**
6. **Territory Families and the Department of Health collaboratively review practices surrounding information collection and recording relating to managing young people who are declared at risk, with a focus on ensuring all information is kept in at least one central location that is accessible to Youth Justice Officers.**

## Education

26. The provision of education in detention is governed by section 40 of the *Education Act*, section 4(i) of the *Youth Justice Act*, regulation 69(1) of the *Youth Justice Regulations* and *Youth Justice Determination 4.3: Structured Day*.
27. As highlighted by the Royal Commission, 'education is a strong protective factor against re-offending and improves overall life outcomes'.<sup>17</sup> The findings of the Royal Commission highlighted concerns in relation to a range of aspects of the provision of education in youth detention centres in the Northern Territory.<sup>18</sup> Primary amongst those concerns was that young people's education was considered subordinate to security considerations, resulting in young people frequently and arbitrarily being excluded from education. As a result of those findings, the focus of the OCC during the February visit was limited to the availability of education to young people in DDYDC and considering the frequency of young people's exclusion from education.
28. The Tivendale School, which is the school within DDYDC, runs four classes each day. The attendance records kept by Tivendale School detail each child's attendance at each class and if the child is absent, reasons for that absence.

## Findings

29. Between 15 January and 15 February 2019 approximately 90% of scheduled classes were available to young people in DDYDC. The reasons recorded for young people not attending

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<sup>17</sup> Royal Commission Report, vol 2A, 387.

<sup>18</sup> See, Royal Commission Report, vol 2A.

school that have been considered as amounting to education being unavailable to young people include:

- 'TF operations';
  - where young people have refused to attend education immediately following a lesson they have been excluded from due to 'TF operations';
  - where young people have not received education due to being placed at risk;
  - where young people have not received education due to being separated; and/or
  - where it is not possible to ascertain from the attendance records why a young person did not attend a lesson.
30. It is noted that 100% of the lessons missed due to 'TF operations' occurred on or before 30 January 2019. Though the Department of Education (DoE) conducted classes in DDYDC commencing on 15 January 2019, the official school year commenced on 29 January 2019.
31. Although approximately 90% of classes were available to young people, there were a variety of other factors that impacted on young peoples' ability to attend and engage in education. Those factors included: court attendance, professional and personal visits and medical appointments. Where school was missed for those purposes, it has not been considered as an instance of education being unavailable. Those factors resulted in approximately 7% of lessons being wholly or substantially missed.<sup>19</sup> Unfortunately, due to the nature of the experience of young people in detention it is unlikely that this figure can be significantly reduced.
32. Each of the young people spoken to about education in DDYDC spoke positively about school, particularly in relation to the Vocational Education and Training courses being offered at DDYDC.
33. It appears that for the part of the official school year monitored by the OCC, the education of young people was not subordinated to security concerns and that the young people in DDYDC were forming positive relationships with teaching staff.
34. In addition, *Safe, Thriving and Connected* indicates that since the Royal Commission report was released the following improvements have also been made to educational services within youth detention centres in the Northern Territory:
- better recording and transfer of information for students entering and exiting the education units;
  - assessments for literacy and numeracy which enable educators to tailor programs to student skill levels;
  - students have access to a broader range of education programs, including the Northern Territory Social and Emotional Learning Curriculum; the Northern Territory Indigenous Languages and Culture Curriculum, health, sport, music, art and improved access to vocational education and training; and

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<sup>19</sup> This figure does not include instances where education was disrupted for one of the listed reasons, but the young person was still able to attend 50% of the scheduled lesson. There was additional education missed due to young people not engaging in the education program.

- education staff have increased opportunities for professional development, including in trauma informed practice and special education.<sup>20</sup>

35. The OCC intends to consider the effectiveness of these improvements in the next monitoring visit to DDYDC.

## RECOMMENDATIONS

### **7. Department of Education staff record the specific aspect of 'TF operations' that have prevented a young person from attending education wherever possible.**

#### Availability of activities and programs

36. The case studies of young people's experiences in detention contained within the report of the Royal Commission almost uniformly contain statements that greater availability of programs and activities would have improved their experiences.<sup>21</sup> For example, one young person said that in relation to improving detention:

*'I would like, create activities, you know, keep the kids active, you know, instead of getting into fight[s] and ... each other and abusing guards... Make them do music, sports, you know, keep them busy and occupied.'*<sup>22</sup>

37. The importance of providing meaningful programs and keeping young people busy in detention is reflected in section 4(p) of the *Youth Justice Act* and the *Youth Justice Policy Determination 4.3: Structured Day*.

#### Findings

38. Throughout January the following programs were available in the DDYDC:
- equine therapy – Yarraman Horse Program;
  - personal training;
  - Mooditji healthy relationships and sexual education program;
  - social and emotional wellbeing support provided by Danila Dilba with staff in DDYDC on a full-time basis;
  - Corrugated Iron circus program;
  - cultural art program;
  - Serving Thyme and Red Cross cooking programs;
  - Party Critters mobile zoo;
  - Balanced Choice – physical and emotional fitness and wellbeing program;
  - Youth for Christ;
  - Upai Purri - cultural music program; and
  - basketball program.

<sup>20</sup> 'Safe Thriving and Connected: Generational Change for Children and Families' (First progress report, November 2018)

<sup>21</sup> See Royal Commission Report, vol 2A, 5-31.

<sup>22</sup> Royal Commission Report, vol 2A, 31.

39. It is noted that some of these programs are more accurately described as therapeutic programs rather than recreational programs.
40. The nature and variety of the programs available within the DDYDC closely reflect the type of programs identified by young people who gave evidence to the Royal Commission as key to improving their experiences in detention. Largely, the young people that we spoke to in DDYDC spoke positively about the available programs. In particular, OCC staff observed, and young people reported, positive and robust relationships between the young people in detention and Danila Dilba staff. This is likely a result of the combination of their full-time presence in the centre and the ability of the young males being held in the centre to relate to the Aboriginal staff working for Danila Dilba. OCC staff did not get an opportunity to observe the young people participating in other recreational programs.
41. The schedule of programs available demonstrates that TF are working to ensure that during school holidays, there are programs available between 8:30am and 5:30pm every day. During the school term there are scheduled programs from 4:00pm to 5:30pm from Monday to Friday and the large majority of the weekend.
42. Some young people expressed that they would like the opportunity to participate in different programs and recreational activities. For example, all young people we spoke to said that they wanted to do more music while in DDYDC. Most young people said they wanted more opportunities to learn about their culture and participate in cultural activities.

## RECOMMENDATIONS

- 8. Territory Families record the number of young people participating in each session of programs run in youth detention on IOMS.**
- 9. Territory Families ensure that young people in detention are meaningfully consulted, and their views are incorporated into decision making in relation to the introduction of any new recreational programs in youth detention centres.**

### The availability and appropriate use of mental health services in the admissions process

43. The availability and appropriate use of mental health services in the admission process is governed by section 149 of the *Youth Justice Act*, division 6 of the *Youth Justice Regulations*, TF *Youth Justice Policy Determination 4.10: Admissions, Warrants and Release* and TF *Youth Justice Policy Determination 5.0 Health Services*.
44. 'Many young people admitted to DDYDC have complex mental health care needs, some of which may not have been identified previously'.<sup>23</sup> Those needs include 'mental health

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<sup>23</sup> Royal Commission Report, vol 2A, 349.

problems, drug and alcohol abuse, elevated rates of chronic conditions...learning difficulties and intellectual disabilities'.<sup>24</sup> Given the prevalence of unidentified and undiagnosed conditions among young people admitted to detention in the Northern Territory, in order to ensure suitable treatment and management of young people, it is critical that a robust mental health assessment procedure forms part of the admissions process. In addition, 'young people are particularly vulnerable when they first arrive at a youth detention centre. Many young people have already experienced high levels of early trauma, increasing their vulnerability. These early experiences may mean that young people being admitted to a centre will have difficulties in interpersonal functioning and understanding, and difficulty controlling their emotional states and impulses. Because of the vulnerability of young people, admission is a high risk period'.<sup>25</sup>

45. In light of this, the Royal Commission recommended a two stage assessment process on admission: an initial risk assessment within the first 24 hours of a young person's admission, followed by a comprehensive assessment within 72 hours. TF have implemented this recommendation by conducting an Individual Risk and Needs Assessment (IRNA) during a young person's admission,<sup>26</sup> followed by a 'comprehensive medical and health assessment' within 24 hours of a young person's admission.<sup>27</sup>
46. During the February visit the focus of the OCC was on the appropriate use of the IRNA during admission and on ensuring young people were assessed by medical staff within 24 hours of their admission.

## Findings

47. In January 2019 there were 26 admissions to DDYDC. An IRNA was conducted in relation to each young person admitted. In approximately 90% of cases young people were also seen by medical staff within 24 hours of admission, as required by the *Youth Justice Regulations*.
48. There were no mental health concerns identified in the IRNAs completed. This finding was compared with the records from the subsequent medical assessments. During the reporting period the OCC found that the mental health observations noted on IRNA's were largely consistent with those contained in the medical notes.
49. In light of the absence of mental health concerns identified in the IRNAs, the OCC considered the capacity of the IRNA to assist YJOs to identify mental health concerns in young people admitted to detention.

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<sup>24</sup> Royal Commission Report, vol 2A, 350.

<sup>25</sup> *Territory Families, Youth Justice Policy Determination 4.0: Admissions, Warrants and Release*

<sup>26</sup> *Territory Families, Youth Justice Policy Determination 4.0: Admissions, Warrants and Release*

<sup>27</sup> *Youth Justice Regulations*, r 57(1).

50. Formally the IRNAs only facilitate YJOs taking the following actions in relation to mental health concerns:
  - a. mark a young person as 'at risk'; or
  - b. note any concerns in their referral to medical staff for review within 24 hours.
51. In practice, the February visit demonstrated that some YJOs have developed informal practices for responding to young people who exhibit sadness or distress during admission, but do not meet the threshold required to be placed at risk. For example, one young person was monitored at regular intervals during the night following his admission, despite not being placed 'at risk'.
52. Given the nature of mental health concerns, it is difficult to design processes and procedures that would ensure all concerns were immediately and effectively identified and responded to. A more effective method of promoting the mental health of young people in detention is to provide front-line staff with suitable training, enabling them to independently identify and appropriately respond to young people experiencing mental health issues.

#### RECOMMENDATIONS

**10. Territory Families ensure that Youth Justice Officers obtain a Certificate IV in Youth Justice in the first 12 months of their employment.**

**11. Territory Families, in collaboration with Aboriginal Health Services, identify appropriate trauma and mental health training courses for all Youth Justice Officers to complete.**

## Appendix One: Monitoring Framework

Domain	Sub- Domains	Measures	Potential Evidence Sources
<b>TREATMENT</b>	Relationships between staff and YP	<p><b>Relationships between staff and YP are respectful, caring and professional</b></p> <p>YJA, s151(3)(b)</p> <p><i>Care and Protection of Children Act, s9</i></p> <p>Youth Justice Policy Determination 4.8: Positive Behaviour Support</p>	<ul style="list-style-type: none"> <li>• Youth Survey</li> <li>• Staff Survey</li> <li>• Complaints received by OCC</li> <li>• Record of TF internal complaints</li> </ul>
	Use of physical restraints	<p><b>Use of restraints is compliant with legislative requirements</b></p> <p>YJA s151A</p> <p>YJA s155</p> <p>Youth Justice Policy Determination 2.4 : Use of restraints</p>	<ul style="list-style-type: none"> <li>• Restraint Register</li> <li>• Training Register</li> <li>• IOMS</li> <li>• Youth Surveys</li> <li>• CCTV</li> </ul>
	Use of force	<p><b>Force is only used in compliance with legislative requirements</b></p> <p>YJA s154</p> <p>Youth Justice Policy Determination 2.5 : Use of force</p>	<ul style="list-style-type: none"> <li>• Use of Force Register</li> <li>• IOMS</li> <li>• Youth Survey</li> <li>• Staff Survey</li> <li>• CCTV</li> </ul>

	Separation	<p><b>Separation is carried out in accordance with legislative requirements</b></p> <p>YJA s155A Youth Justice Policy Determination 4.11: Separation</p>	<ul style="list-style-type: none"> <li>• Separation Register</li> <li>• Daily Block Journals</li> <li>• Youth Survey</li> <li>• CCTV</li> <li>• Staff Survey</li> <li>• Notifications of Separations received by OCC</li> </ul>
	At risk	<p><b>At risk procedures are carried out in compliance with legislative requirements</b></p> <p>YJA s162 Youth Justice Regulations Division 3 Youth Justice Policy Determination 5.1: Young People At Risk</p>	<ul style="list-style-type: none"> <li>• IOMS</li> <li>• Medical Records</li> <li>• Staff Survey</li> </ul>
	Searches (Strip Searches included)	<p><b>Searches are carried out in compliance with legislative requirements</b></p> <p>YJA s161 Youth Justice Regulations, r 72 and 73 Youth Justice Policy Determination 2.1: Searches</p>	<ul style="list-style-type: none"> <li>• Search Register</li> <li>• Youth Surveys</li> <li>• Staff Surveys</li> </ul>
	Behaviour Management System	<p><b>A behaviour management system is in place that is fair, clearly explained to the young people and implemented</b></p> <p>YJA, s150</p>	<ul style="list-style-type: none"> <li>• Youth Surveys</li> <li>• Staff Surveys</li> </ul>

		YJR, r31 Youth Justice Policy Determination 4.8: Positive Behaviour Support	
	Leaving Detention Planning	<b>Planning occurs when young people leave detention to ensure continuity of support and services</b> Youth Justice Policy Determination 4.1: Case Management, Assessment and Throughcare Services	<ul style="list-style-type: none"> <li>• Youth Surveys</li> <li>• IOMS (case plans and case planning meeting minutes)</li> <li>• Staff Surveys (TF, DoE, Bail Support)</li> </ul>
	Education for YP in care	<b>Young people in detention can access education at the same standard as young people outside of detention</b> Education Act s 40 Youth Justice Act s151(2)(3) (a)(b) Youth Justice Determination 4.3: Structured Day	<ul style="list-style-type: none"> <li>• Daily logs</li> <li>• DoE Attendance Records</li> <li>• Youth Surveys</li> <li>• Staff Survey</li> </ul>
<b>PROTECTION SYSTEM</b>	Admission process	<b>The admissions process is compliant with legislative requirements</b> YJA s149 YJA s 150 Youth Justice Regulations r57 Youth Justice Policy Determination 4.0: Admissions, Warrants and Release Youth Justice Procedure 4.0 - Process Map for Admissions	<ul style="list-style-type: none"> <li>• Medical Records</li> <li>• IOMS</li> <li>• Admission/Release Files</li> </ul>

	Physical Safety of young people in detention	<b>Young people are physically safe and feel physically safe in detention</b> YJA s151(2) YJA s151(3)(c)	<ul style="list-style-type: none"> <li>Youth Surveys</li> <li>Appropriate use of Intake Assessment Documents</li> <li>Youth Surveys</li> <li>Incidents i.e. Assaults</li> <li>Communication Systems in place</li> </ul>
	YP's knowledge of their rights	<b>Young people are told their rights in detention in a way they understand</b> YJA s150	<ul style="list-style-type: none"> <li>Youth Surveys</li> <li>Inspection of Facility</li> <li>Access to Information from Providers</li> </ul>
	Administration of complaints system	<b>The centre has a complaints system that the young people know about, that is fair, confidential and that works quickly</b> YJA s163 YJR, r66 and r67 Youth Justice Policy Determination 3.3: Complaints	<ul style="list-style-type: none"> <li>Complaints Register</li> <li>Youth Survey</li> <li>Staff Survey</li> </ul>
<b>LIVING ENVIRONMENT</b>	Inside environment (shared spaces outside a young person's cell – eg recreation areas, meal areas, interview rooms)	<b>The detention centre is clean, safe and can accommodate the needs of the young people</b> YJA s151(d)	<ul style="list-style-type: none"> <li>Facility Inspections</li> <li>Block Journal</li> <li>Youth Survey</li> <li>CCTV</li> <li>Daily Census</li> </ul>
	Outside environment	<b>Young people have daily access to outside areas in which they can participate in recreational activities</b> Youth Justice Determination 4.3: Structured Day	<ul style="list-style-type: none"> <li>Youth Survey</li> <li>Facility Inspection</li> <li>Staff Survey</li> </ul>

		Youth Justice Determination 4.2: Accommodation of Young People	
	Room (incl. bedding, sanitary installations, privacy, overcrowding)	<b>Each young person's room has adequate facilities for sleeping, temperature and privacy</b> Youth Justice Determination 4.2: Accommodation of Young People	<ul style="list-style-type: none"> <li>• Facility Inspection</li> <li>• Youth Survey</li> </ul>
	Clothing	<b>Each young person has sufficient clothing and footwear</b> Youth Justice Regulations, r61	<ul style="list-style-type: none"> <li>• Youth Survey</li> <li>• Staff Survey</li> </ul>
	Personal hygiene	<b>Young people have access to facilities and products to allow them to maintain good personal hygiene</b> Youth Justice Policy Determination 4.5: Supporting Girls and Young Women in Detention Youth Justice Determination 4.2: Accommodation of Young People	<ul style="list-style-type: none"> <li>• Youth Survey</li> <li>• Staff Survey</li> </ul>
	Food	<b>Young people are provided with sufficient and nutritious food</b> YJR r 62	<ul style="list-style-type: none"> <li>• Youth Survey</li> <li>• Staff Survey</li> </ul>
<b>ACTIVITIES &amp; CONTACT WITH OTHERS</b>	YP's contact with families	<b>Contact between young people and their families is supported, encouraged and facilitated</b> YJA, s4(h) YJR r 45 & 46	<ul style="list-style-type: none"> <li>• Visitors Book</li> <li>• Youth Survey</li> <li>• Staff Survey</li> </ul>

		<p>Youth Justice Policy Determination 3.1 Personal and Professional visits</p> <p>Youth Justice Policy Determination 4.1: Case Management, Assessment and Throughcare Services</p>	
	YP's participation in activities and programs	<p><b>While in detention young people have access to and are supported to participate in varied recreational activities and programs that are culturally appropriate, promote health and self-respect and assist them to re-integrate into the community</b></p> <p>YJA s4(f) and (p)</p> <p>Youth Justice Determination 4.3: Structured Day</p>	<ul style="list-style-type: none"> <li>• Youth Survey</li> <li>• Staff Survey</li> </ul>
<b>MEDICAL SERVICES</b>	Access to primary health services	<p><b>Young people in detention have access to primary health services of the same standard and availability as young people outside of detention</b></p> <p>YJA s173 &amp;174</p> <p>Youth Justice Regulations, r 58, 59 &amp; 60</p> <p>Youth Justice Policy Determination 5.0: Health Services</p>	<ul style="list-style-type: none"> <li>• Facility Inspection</li> <li>• Youth Survey</li> <li>• Staff Survey</li> <li>• Medical Records</li> </ul>

	Access to specialist health services (mental health, drug/alcohol services)	<p><b>Young people have access to specialist health services as required</b></p> <p>YJA s4(f)</p> <p>YJA s151(3)(a)(b)</p> <p>Youth Justice Policy Determination 4.1: Case Management, Assessment and Throughcare Services</p> <p>Youth Justice Policy Determination 5.0: Health Services</p>	<ul style="list-style-type: none"> <li>• Professional Visitors Log</li> <li>• IOMS</li> <li>• Medical Records</li> <li>• Youth Survey</li> <li>• Staff Survey</li> </ul>
	Administration of medication	<p><b>Administration of medication is done in a timely and reliable manner and appropriate records are kept</b></p> <p>Youth Justice Policy Determination 5.0: Health Services</p>	<ul style="list-style-type: none"> <li>• Staff Survey</li> <li>• Youth Survey</li> </ul>
	Waiting times for health services	<p><b>Young people in detention receive medical attention without unreasonable delay</b></p> <p>Youth Justice Policy Determination 5.0: Health Services</p>	<ul style="list-style-type: none"> <li>• Staff Survey</li> <li>• Youth Survey</li> </ul>
	Dentist, audiologist and optometrist	<p><b>Young people can access any required medical service</b></p> <p>Youth Justice Policy Determination 5.0: Health Services</p>	<ul style="list-style-type: none"> <li>• Staff Survey</li> <li>• Youth Survey</li> <li>• Medical Records</li> </ul>
<b>STAFF</b>	Staff behaviour	<p><b>Staff consistently behave in a way that makes young people feel safe, contributes to the effective operation of the centre, and can</b></p>	<ul style="list-style-type: none"> <li>• Youth Survey</li> <li>• Staff Survey</li> <li>• CCTV</li> <li>• Complaints received by OCC</li> </ul>

		<b>offer positive role modelling to the young people</b>	<ul style="list-style-type: none"> <li>• Internal Complaints received by TF</li> </ul>
	Staff supervision	<b>Supervision and assessment improve staff work performance and development</b> <b>Staff know relevant legislation policies and procedures,</b> <b>Staff have the opportunity for career progression</b> <b>Staff have accessible and quality therapeutic supervision</b>	<ul style="list-style-type: none"> <li>• Staff Survey</li> <li>• Performance Plans</li> </ul>
	Working relationship between service providers	<b>Information and advice is shared between all agencies and providers in the detention in the best interest of the young people</b>	<ul style="list-style-type: none"> <li>• Staff Survey</li> <li>• Records Review</li> </ul>
<b>CULTURALLY APPROPRIATE AND RESPONSIVE</b>	Appropriate Cultural Training of Staff	<b>All staff have participated in cultural training and interpreter training, including refresher training</b> YJA, s(4)(j)(p)	<ul style="list-style-type: none"> <li>• Training Records</li> <li>• Staff Survey</li> <li>• Youth Survey</li> </ul>
	Cultural programs	<b>Available and appropriate programs are in place that assist young people to learn and participate in their culture</b> YJA s(4)(f),(o)&(p) Youth Justice Determination 4.3: Structured Day	<ul style="list-style-type: none"> <li>• Youth Survey</li> <li>• Visitors Log</li> </ul>

## Appendix Two: Interviews conducted and information accessed

The information that was considered in this monitoring visit to DDYDC included:

- Reviewing the following hard and electronic documents:
  - IOMS;
  - Written observations related to the separations;
  - Journal recordings related to the separations;
  - All Daily Logs/Day Journals between 1-31 January 2019;
  - Individual management plans or Emergency Management Protocol records related to young people declared at risk between 1 -31 January;
  - Written observations related to the young people declared at risk;
  - Journal recordings related to the young people at risk;
  - Notification of Concern for the young people declared at risk;
  - Young Person Support Plan/Case Plan in place for young people detained between 1-31 January 2019;
  - Professional Visitors Log from 1-31 January 2019;
  - Tivendale School attendance records;
  - A copy of the Tivendale school curriculum;
  - Medical notes relating to young people being declared 'at risk'; and
  - Medical notes relating to the admission of young people to DDYDC.
  
- Interviewing the following people:
  - Young people.