



Department of
Justice and Attorney-General

In reply please quote: OADG 16-148

Ms Megan Mitchell
National Children's Commissioner
Australian Human Rights Commission
GPO Box 5218
SYDNEY NSW 2001

Dear Ms Mitchell

I am writing in response to your letter dated 22 March 2016 which requested information about current oversight mechanisms for Queensland youth detention centres. I understand that this information will be used to inform your work in considering the development of a national preventative mechanism in the event that Australia ratifies the Optional Protocol to the Convention against Torture (OPCAT).

While I have endeavoured to provide information in relation to the questions outlined in your correspondence, please note that I am not privy to specific details about how external oversight bodies conduct their business. Accordingly, you may need to contact these organisations directly if further detail is required relating to their standards, guidelines and frameworks for monitoring youth detention centres.

Oversight and monitoring

The Department of Justice and Attorney-General (the department) is committed to ensuring the safety, wellbeing and rehabilitation of young people in youth detention and has a legislated obligation to do so. Over the past 18 months, the department has commenced extensive work to streamline and strengthen internal youth detention oversight, governance and accountability. This work includes the development of:

- a performance framework to assist the department to identify and build on positive aspects of youth detention service delivery, as well as highlighting areas of service delivery that require further improvement;
- a quarterly performance review process that involves the Assistant Director-General, Youth Justice, and a panel of experts meeting with senior management at each youth detention centre to monitor and assess quarterly performance in accordance with the performance framework;
- regular proactive audits of youth detention services and practices – this occurs on a monthly basis and addresses the continuum of youth detention service delivery;

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- a new Operational Inspector and support team that conduct quarterly inspections of the youth detention centres, review and assess the proactive audits conducted by the youth detention centres, and facilitate investigations into emerging issues as required;
- Service Level Agreements between the Executive Directors of each youth detention centre and the Assistant Director-General, Youth Justice, which clearly stipulate the required performance standards for youth detention centres; and
- Quarterly corporate reporting on complaints in the youth detention centres, as featured on the department's website.

In addition, Queensland youth detention centres are also monitored by the following oversight mechanisms:

- weekly visits and advocacy by Community Visitors from the Office of the Public Guardian. As part of this process, Community Visitors have direct access to young people, staff and site records and facilitate local resolution of issues and complaints. Under section 67 of the *Public Guardian Act 2014*, Community Visitors have the power of entry which aligns with OPCAT article 19(a) and 20(20c);
- quarterly reporting to the Public Guardian regarding alleged instances of harm, potential breaches of principles 3, 15, 19 or 20 of the youth justice principles and the results of any investigation into these matters in accordance with section 37 of the *Youth Justice Regulation 2003*;
- quarterly inspections of each youth detention centre by the Youth Detention Inspectorate, an independent arms-length oversight mechanism established under section 263 of the *Youth Justice Act 1992*. As part of this process, the inspectors access records and speak directly with young people, staff and management to identify and examine potential service delivery issues;
- annual performance reporting in the Report on Government Services which examines the occurrence of critical issues such as self-harm, suicide, assault, and escapes; and
- information sharing and comparative analysis with the Australian Juvenile Justice Administrators regarding youth detention service delivery nationwide.

The Queensland Ombudsman (the Ombudsman) also plays an independent oversight role in Queensland youth detention centres (section 12 of the *Ombudsman Act 2001*):

- the Ombudsman conducts visits of Queensland youth detention centres and makes a number of recommendations to improve service delivery;
- the Ombudsman is provided with copies of the regular proactive audits that are completed for each youth detention centre and the quarterly inspection reports completed by both the Youth Detention Inspectorate and the Operational Inspector;
- the department and the Ombudsman discuss any issues of concern identified in these documents at a quarterly meeting and propose areas to be investigated and addressed by the Operational Inspector as part of their next quarterly inspection process; and

- the outcomes of the Operational Inspector's review of these issues is then addressed and provided to the Ombudsman in the next quarterly report for consideration and discussion.

The current suite of oversight mechanisms for Queensland youth detention centres is comprehensive and provides numerous checkpoints, both internally and externally, for all critical aspects of service delivery to young people in youth detention to ensure their safety, wellbeing and rehabilitation. Attached is an overview of the oversight mechanisms and governance in Queensland youth detention centres.

Community-based organisations regularly visit youth detention centres. In particular, the Youth Advocacy Centre provides legal information to young people in custody, explaining the legal situations they may face and their respective rights. They also provide young people with basic legal information concerning common issues of concern including police contact, searches, noise complaints, drugs, sex, fights and the court process. One session is delivered on a monthly basis to a group of six young people during the structured daily routine within the centre. The outcome of this program is to enable young people to make informed choices, which will in turn hopefully decrease young people's interactions with the justice system.

Registers

The *Youth Justice Regulation 2003* legislates mandatory recording in Queensland youth detention centres for particulars relating to:

- complaints (section 13) – must record details of a complaint the child makes on admission to a detention centre;
- force (section 17) – must record details about the use of reasonable force
- restraints (section 21) – must record particulars about approved restraints, the child's name, the day on which restraints were used, and the circumstances in which restraints were used;
- separation (section 23) – must record the child's name, the reason for the child's separation, the name of the detention centre employee who supervised the child during separation, and the date and length of time for which the child was separated; and
- searches (section 28) – must record the name of the child searched, the reason for the search, the name of the person who carried out the search, the name of the person who helped carry out the search, and details about the use of force (if required).

The Detention Centre Operational Information System (DCOIS) is the established business system for capturing information about service delivery in Queensland youth detention centres, including the aforementioned safety and security issues and associated critical incidents. This data repository additionally captures information pertaining to all operations and events within Queensland youth detention centres, including admissions, activity logging, accommodation, behaviour management, young person movements, intelligence, security management and maintenance, medical issues, observations, property storage, young person and centre diaries,

program management, searches, suicide risk, visits, incident reporting, emergency response, young person correspondence, community contact and complaints.

The Queensland youth detention centres are responsible for ensuring timely and accurate recording within DCOIS. This information is used to inform the suite of monitoring and governance mechanisms outlined previously. This information is also used to facilitate annual public reporting on critical issues such as self-harm, suicide, assault and escapes in the Report on Government Services. This information often also features in the Youth Detention Inspectorate quarterly reports which are publicly available on the department's website. The department also publishes quarterly information on its website about complaints pertaining to youth justice service delivery.

Complaints

The safety, wellbeing and rehabilitation of young people in Queensland youth detention centres is of paramount importance. Accordingly, the department has a comprehensive framework of policies, procedures, staff training and oversight to ensure that young people in youth detention are provided with a safe and secure environment that assists them with their rehabilitation and reintegration into the community. This includes a comprehensive complaints management system that is accountable and transparent and is administered in a way that ensures young people can have confidence in the system to be responsive to their concerns. Information regarding the complaints process is available online at www.qld.gov.au as well as policies guiding the management of complaints.

Young people in youth detention are assisted to make complaints:

- directly to the youth detention centre about any matter relating to their experience of youth detention. Queensland youth detention centres have a designated role that investigates and actions complaints relating to service delivery to/experiences of young people in youth detention;
- to the Queensland Police Service (QPS) if they are the victim of an alleged criminal offence;
- to the Office of the Public Guardian about anything they may be concerned about. Community Visitor mailboxes are present throughout the youth detention centre to allow young people the opportunity to write confidentially to Community Visitors for advocacy on a number of issues, including complaints. Community Visitors also visit Queensland youth detention centres on a regular basis to meet with and advocate for young people in youth detention. Young people are also able to call their Community Visitor if they wish; and
- to the Ombudsman if they are unhappy about how their complaint has been handled.

Young people have a legislated right to communicate confidentially with oversight agencies and advocates such as the Public Guardian, a Community Visitor, a Child Advocacy Officer, or a legal practitioner representing the young person (*Youth*

Justice Regulation 2003 Part 4 Division 7). Telephone conversations and correspondence by a young person for this purpose cannot be monitored by Queensland youth detention centres.

A young person's family member, care provider or members of the public can also make a complaint about any aspect of youth detention service delivery by:

- completing a complaints form (available online);
- advising the centre of their complaint verbally;
- advising the centre, the Director-General or the Attorney-General of their complaint in writing; and
- emailing the department via the public complaints page.

In support of this, all youth detention staff must also be able to explain the complaints management processes available to young people, their families and advocates and be able to help them make a complaint. Young people are also provided with child-friendly information about making complaints on induction.

Education and Health staff also have the ability to take complaints from young people and advocate for their needs. Case workers and psychiatrists work with young people to ensure appropriate care. The department also takes the following action in relation to complaints in Queensland youth detention centres:

- if the complaint relates to alleged staff misconduct, the department will refer the matter to the department's arms-length Ethical Standards Unit, who will investigate the matter and on-forward the matter to the Crime and Corruption Commission and the QPS as relevant;
- if the complaint relates to an allegation or suspicion of harm that is alleged to have occurred while the young person was in a youth detention centre, or an alleged breach of principles 3, 15, 19 or 20 of the youth justice principles, the department will report the harm to the Public Guardian in accordance with section 37 of the *Youth Justice Regulation 2003*;
- if the complaint relates to a child protection matter, the department will notify child safety services and other relevant stakeholders, including the young person's parents/care providers; and
- if the complaint relates to a potential criminal offence that is alleged to have occurred to a young person and the young person does not wish to make a complaint to the QPS, the department is required to refer the matter to the QPS (regardless of the young person's wishes).

Combined, these mechanisms provide a comprehensive framework by which complaints can be raised and actioned for young people in Queensland youth detention centres. It also provides several points of contact and oversight by external agencies.

The department keeps a record of all complaints made by children and young people in Queensland youth detention centres in DCOIS, including where a complaint has

been referred to an external agency for action. This includes information about the child's age, gender, Indigenous status and can be linked to other information recorded about the child in the system. As aforementioned, the department provides quarterly complaints reports to the Public Guardian regarding potential breaches of principles 3, 15, 19 or 20 of the youth justice principles and the results of any investigation into these matters in accordance with section 37 of the *Youth Justice Regulation 2003*. The department also publishes quarterly information on its website about complaints pertaining to youth justice service delivery. This information is reported at a systemic level, however does include information about key age cohorts and the category of the complaint.

Queensland youth detention centres received 25 complaints from children and young people during the 2014/2015 year. Of these, one was referred to the Crime and Misconduct Unit of the QPS and seven were referred to the department's Ethical Standards Unit.

Young people in adult correctional facilities

The *Youth Justice Act 1992* defines a child as a person under the age of 17 years. If a young person is over the age of 17 and commits an offence, they are dealt with as an adult in Queensland courts and will serve an ordered period of imprisonment in an adult correctional facility. If a young person in youth detention turns 17 and has six months remaining on their sentence they will be automatically transferred to an adult correctional facility (section 276B of the *Youth Justice Act 1992*). However, the Queensland Government is currently considering amending this requirement to 18 years. Once a young person has progressed into the adult correctional system they are no longer within the scope of the Queensland youth justice system for monitoring and service delivery. With that said, I understand that these young people continue to be visited by Community Visitors until they are released into the community or turn 18 years (section 10 of the *Public Guardian Act 2014*).

Rewards and consequences

Behaviour development in Queensland youth detention centres is informed by the theories of positive behaviour development and intervention support. Accordingly, the following principles underpin behaviour development in Queensland youth detention centres:

- promotion of a calm and stable environment for young people free from threats and bullying;
- ensuring all staff across all shifts implement the behaviour development model consistently, setting clear behavioural expectations that are applied and observed consistently;
- providing specific, targeted and timely feedback to the young person about their behaviour;
- establishing clear expectations and rules that can be easily understood by young people as logical, important and fair;

- acknowledging the rights of young people who have experienced or are experiencing trauma, loss, grief or poor attachments to receive appropriate behavioural support to meet their individual needs;
- providing support responses that take into account the young person's age, developmental level and cultural needs; and
- providing young people with the opportunity to consent, participate and have their views taken into account in positive behaviour support planning processes to the fullest extent possible.

A rewards system is in place to motivate young people to demonstrate positive behaviour, while reinforcing social, educational and vocational skills. This includes access to things such as:

- in-room television;
- in-room music;
- access to buy-up items;
- access to a later bedtime; and
- access to special activities and events (e.g. a football tournament against a local school).

Consequences are also in place to assist in managing a young person's misbehaviour. Consequences are intended to:

- allow young people to understand the connection between their behaviour and the consequences;
- be swiftly imposed so that young people can quickly restore their standing and can resume their progress in developing positive behaviours;
- offer young people opportunities to develop self-management skills through guiding young people and modelling positive behaviour;
- address inappropriate behaviours by exploring with the young person other ways of behaving or approaching similar situations in the future; and
- provide an appeals process to allow young people to challenge decisions made as part of the consequence scheme.

Consequences may include restricted access to the aforementioned rewards, additional chores, mediation and restitution processes, or possible criminal charges if warranted.

Please note that Queensland is currently implementing a model of trauma-informed practice and is also reviewing the current framework for rewards and consequences in youth detention centres. This may have some significant implications for future behaviour management practices in Queensland.

Rights of young people

Young people are explained their rights and responsibilities in Queensland youth detention centres during their induction and are provided with a child-friendly induction booklet (as attached). Specifically, young people are advised that they have the right to:

- be safe and well;
- have their views taken seriously;
- complain if they are unhappy about something;
- maintain relationships with family and other significant people;
- receive support from people to make good choices;
- participate in cultural activities and practice their religious beliefs; and
- not have their rights taken away as part of behaviour management.

All youth detention staff receive mandatory competencies training to teach them the information and skills they need to work with young people in Queensland youth detention centres, including information about the rights and responsibilities of young people. Staff are also supported by a comprehensive Youth Detention Centre Operations Manual and suite of policies which provide detailed guidance about working with young people in Queensland youth detention centres. Any breach of a young person's rights in Queensland youth detention centres is taken seriously and investigated by a dedicated officer (Manager, Monitoring and Compliance) who will determine the appropriate course of action, including potential referral to the department's Ethical Standards Unit for review or an appropriate external body if required.

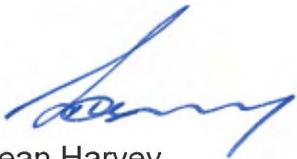
Transportation of young people

The department is party to a memorandum of understanding (MOU) with the QPS regarding the transport and custody of children and young people in court cells and watchhouses. This MOU has been in place since 2008 and is currently under review. A State Watchhouse Liaison Committee (comprised of members from the department, QPS, and the Public Guardian) meets quarterly to discuss matters relating to the MOU and services provided in accordance with it.

Thank you for the opportunity to provide information to inform your work regarding the potential development of a national preventative mechanism for Australia, subject to the ratification of OPCAT. As you can see from the information contained in this letter, Queensland has a robust suite of oversight mechanisms in place for youth detention centres. Accordingly, in the event that Australia does ratify OPCAT, it would be essential to ensure that the required national preventative mechanism would be established in a way that would link in with existing oversight mechanisms to maximise services and efficiencies, rather than creating an additional level of oversight burden for Queensland youth detention centres.

Should you or your staff have any queries in relation to this matter, please do not hesitate to contact Mr David Herbert, Director, Youth Justice Practice, Program and Design on (07) 3033 0891 or at: david.herbert@justice.qld.gov.au.

Yours sincerely



Sean Harvey
Assistant Director-General



Oversight mechanisms and governance of Queensland's youth detention centres

Internal oversight

<p>Manager, Monitoring and Compliance – A dedicated position in the youth detention centres responsible for overseeing incidents, ensuring compliance with policies/procedures, and resolving complaints.</p>	<p>Ethical Standards Unit – An independent internal investigation unit responsible for investigating and making recommendations in relation to alleged staff misconduct.</p>	<p>Service Review Team – An independent internal service review team responsible for reviewing service delivery in the youth detention centres and making recommendations for improved practice.</p>	<p>Youth Detention Inspectorate – An independent internal inspection function responsible for conducting quarterly inspections of the youth detention centres and making recommendations for improved practice.</p>	<p>Quarterly performance reviews – A quarterly performance review process that involves the Assistant Director-General (Youth Justice) and a panel of experts meeting with senior management at each youth detention centre to monitor and assess quarterly performance.</p>	<p>Proactive monitoring reviews – A regular proactive review process at the youth detention centres that occurs on a monthly basis to monitor and assess the continuum of youth detention service delivery.</p>
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External oversight

<p>Office of the Public Guardian – Regular visits and advocacy by Community Visitors at the youth detention centres, in addition to quarterly reporting regarding alleged instances of harm and breaches of principles 3, 15, 19 or 20 of the Youth Justice principles in accordance with section 37 of the <i>Youth Justice Regulation 2003</i>.</p>	<p>Ombudsman – Annual inspections of the youth detention centres and quarterly meetings and reporting regarding outcomes from internal oversight functions.</p>	<p>Report on Government Services – Annual performance reporting in the Report on Government Services examining the occurrence of critical issues such as self-harm, suicide, assaults and escapes.</p>	<p>Australian Juvenile Justice Administrators – Information sharing and comparative analysis with the Australian Juvenile Justice Administrators regarding youth detention service delivery nationwide.</p>	<p>Interagency Program Advisory Committee – Multiagency scrutiny of policy, programs and practice in youth detention centres by DETE, QH and DJAG.</p>	<p>Queensland Family and Child Commission – Legislated role to work with agencies to promote the wellbeing of children and families.</p>
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