

**Submission by
YOUTH ADVOCACY CENTRE INC
to the
Youth Detention Review**



OCTOBER 2016

The Youth Advocacy Centre Inc (YAC) is a well-respected legal and social welfare agency for 10-18 year olds who are involved in, or at risk of involvement in, the youth justice and/or child protection systems and/or are homeless or at risk of homelessness – young people who are among the most marginalised and excluded by society. YAC's aim is to provide a safety net of legal and social welfare services and then seek to transition young people to more secure lives and opportunities – for their benefit and that of the community more broadly.

YAC has a long history of regular contact with the Brisbane-based youth detention centre at its various sites. Indeed, YAC was a direct result of concern for young people being held in the Brisbane Youth Detention Centre when it was in the former Children's Eye Hospital at Windsor. The concerns of the Chaplain, Father Wally Dethlefs in the 1970s for the treatment of children in the justice system and in detention in particular, led him to form a group, Justice for Juveniles, which drew up the blueprint for a Youth Advocacy Centre – a multidisciplinary model which remains valid today.

In its early years, YAC was **the** agency which visited the detention centre on a weekly basis to ensure young people had legal representation organised and to follow up on any issues the detainees were experiencing. One of the most pressing issues in the late 1980s was the use of care and control orders to lock up young people, particularly girls, for behaviours which were not actually a breach of the law – “status offenders”.

The following responses to the Review relate to the Brisbane Youth Detention Centre (BYDC) and are based on the experience of YAC lawyers, one of whom has been visiting clients there for over 20 years.

1. The operation and management of Queensland youth detention centres.

YAC has observed an increased regimentation in the operation of BYDC since its current premises opened over ten (10) years ago. At the time of the opening of centre the severe and prison like perimeter wall adorned with barbed wire was justified on the premise that this would allow greater flexibility for freedom of movement within the centre - akin to movement in with a school campus. YAC casework staff were encouraged to access clients in their sections rather than rely upon availability of designated visit space. Young people were able to move about the campus unescorted and undertake recreational activity e.g. a morning or afternoon run.

This easy access to the centre encouraged a culture of regular interaction with community. This was reinforced by an ability of solicitors to call their clients at the detention centre. Regular stakeholder meetings were held at BYDC and issues at the detention centre were discussed as part of regular Youth Justice Reference Group meetings.

Young people are all now escorted around the campus despite increased security screening of all persons entering the campus using machines akin to those in the adult prison and at airports the screen for terrorists. Anecdotally Youth Advocacy Centre is aware of increased training of “restraint” techniques for youth workers.

Visits by YAC caseworkers are now strictly restricted to the visits area and these are not always easily accessible, particularly as a result of the practice of internal staff and caseworkers using the visits area to undertake their contact with young people. Such were the delays in visit times available for members of the legal profession seeking access to their child clients that the Queensland Law Society wrote to the Attorney about the issue. This has resulted in some improvement. If stakeholder meetings continue the Youth Advocacy Centre is no longer invited. Despite repeated assurances to the contrary, the Youth Justice Reference Group has not been reconvened since the transfer of responsibility for Youth Justice to the Attorney General's Department under the Newman government.

2. The operation and management of Queensland prisons with respect to 17-year-old prisoners.

It is important to clarify the situation with respect to 17 year olds in adult prison in Queensland. The usual response is: *they are separated from adults and put into their own space*. This is colloquially known as the “boys’ yard”. However:

- only Brisbane Correctional Centre (BCC) has a ‘boys’ yard’: no other prison has this facility
- when there is insufficient space in BCC, boys are held in solitary confinement with all that that entails
- there is no equivalent for girls in the Women’s Prison.

Whilst the efforts to separate 17-year-olds in their own section is understandable in an effort to find a compromise to requirement to separate the cohort from adult offenders, the consequence is that 17-year-olds in adult prison have restricted access to areas and privileges that are otherwise available to the adult cohort. Most particularly, legal visits to 17 year olds in the boys’ yard are only able to occur on Friday mornings, greatly restricting the ability of these young people to have face-to-face access with their legal representatives. This is complicated by solicitors often having to appear at court in the mornings, further limiting the opportunities to meet with clients.

It is understood that family visits can only occur within this very limited timeframe.

3. Oversight of Queensland youth detention centres.

In addition to the formal accountability mechanisms, parents and guardians remain an important oversight mechanism for the well-being of young people in detention. Ensuring that families are aware of all review mechanisms and how to access them is as important as it is for the young people detained.

YAC has repeatedly raised concerns about the particular vulnerability of young people in care who are held in detention. A major issues is the apparent infrequency with which Child Safety caseworkers visit the young people they are responsible for when they are held in custody. YAC would support a minimum requirement that a Child Safety Officer responsible for a young person maintain at least weekly face-to-face contact either in person or by Skype type technology with a young person whilst in detention. This would be consistent with anticipated frequency of visits by the child’s parent(s). YAC also strongly advocates for provision of a Child Safety caseworker in each of the detention centres to address the issues for these particular young people whilst in detention. This is consistent with the practice of Youth Justice Services which has an individual caseworker allocated to the young person whilst in detention while also having a caseworker based on site in the Youth Justice Service Centre.

The importance of having in place external transparency and accountability processes must be recognised. Previously, a group of key stakeholders including a community based youth agency (YAC), community based Indigenous agency (ATSILS) and the Victims of Crime Association provided a mechanism of independent scrutiny for youth detention centre operations, in particular focussing on individual case management plans of young people who were detained. This group (the Secure Care Review Group) regularly reviewed activities in the detention centre with the view to increasing levels of compliance within the detention centre’s secure care framework. The YAC representative felt that te Group was effective in achieving this.

4. Oversight of Queensland prisons with respect to 17-year-old prisoners.

The consequences of 17-year-olds being in adult custody is that they are separated from the usual provision of services provided to young people in detention. It was only after some agitation by YAC and other agencies that the former Commission for Children and Young People provided a community visitor program to 17-year-olds in the boys’ yard. YAC is not aware that a service has ever been provided to any other watch-house or prison where 17-year-olds are held, including the women’s prison. Most significantly a 17-year-old’s parent or guardian is not required to be notified when a 17-year-old is

arrested or in custody. It is been YAC's experience that Child Safety Services are similarly unaware when the children in their care are placed in the adult prison. Not surprisingly, despite the existence of statutory oversight, it is often a parent who facilitates the review or complaint of the treatment of a child whilst in detention. A lack of knowledge by a parent - and even their statutory carer - that a young person is in prison removes this layer of protection.

5. Interim measures required for transfer of 17-year-olds from prison to youth detention.

YAC has represented young people who had previously been incarcerated in the adult prison and subsequently transferred to the detention system when their adult matters have concluded. Similarly YAC has represented young people who have been subject to transfer to an adult prison. Not surprisingly an effective transition is best achieved when there is certainty about the facility to which the young person is to be transferred.

YAC has long advocated for an effective interface between the youth detention and adult correction systems for those young people being transferred between the two systems so that security classifications can be determined prior to transfer. The adult correction system refuses to recognise the positive achievements and progress of young people whilst in youth detention which has resulted in them achieving privileges associated with low security risk. When they are being transferred to adult prison they receive no privileges and are held at a high security rating. Not surprisingly this "snakes and ladders" approach to privileges and placement decided by transfer can create feelings of injustice and dissatisfaction resulting in behavioural difficulties.

Corrective Services has previously refused to confirm the security classification of a young person prior to transfer, requiring a new assessment to be completed on transfer to their system. The young person may have been incarcerated in the youth detention system for a significant period of time sometimes for years. The assessment by Corrective Services can take weeks to complete. It is understood that, even though the youth detention system has always been willing to allow Corrective Services to attend at the detention centre in order to undertake these assessments, yet these offers have been refused. YAC strongly advocates that Corrective Services take on board the benefits of assessment prior to transfer and undertake any assessments regarding privileges or levels prior to the transfer of any person from prison to detention. There may need to be protocols the effective exchange of information.

YAC suggests that any transition be done in a gradual manner so as to avoid unnecessary disruption and disorientation. It may be appropriate for 17-year-olds currently in adult custody to engage in schooling or other training activities at the detention centre during the day while still residing in the boys' yard. Prior to transfer it would also be expected that any young person to be transferred would have met with their caseworker at the detention centre, been provided with an opportunity to have an orientation of the centre and be made aware of the facilities and programs available to them, including MHATODS. Given the transfer may cause anxiety for some young people consideration should be given to the provision of MHATODS services to those young people who are to be transferred in the months leading up to the transfer so that a therapeutic relationship is established by the time of the transfer.

It is vital that the information about any proposed transfer be carefully explained both in person and in writing and that there be information provided to the potential transferee around any right of review or appeal in relation to decisions associated with the transfer. Provision must also be made to enable transferees to have legal advice and advocacy in relation to questions and concerns they have in relation to a transfer.

6. Programs and services delivered in youth detention centres including addressing causational issues behind their offending behaviour.

The provision of effective programs to young people in detention to assist in their transition post release is critical if the aim is to improve young people's capacity to avoid further contact with the criminal

justice system. The provision of effective drug and alcohol counselling and psychological and other counselling is currently provided by the MHATODS service. Delays in referral to that program and the limited resources of the program greatly reduce the opportunity to maximise the outcomes that could be achieved for the young people concerned.

Of equal importance to effective programs within the detention centre are effective referrals and pathways for young people to maintain counselling and therapeutic responses when back in their community. It is YAC's experience that few services are resourced to maintain counselling services they may be providing to young people prior to their entry to detention, or to have the worker with whom the young person will be working when they come back to the community commence counselling/therapy in detention prior to release. The building of an effective therapeutic relationship with the worker with whom young people will engage post release greatly increases the chance of that relationship being successfully maintained and therefore the counselling/therapy being effective. The Griffith Youth Forensic Service (GYFS) is a service that utilises this approach with proven success. In YAC's experience, most young people are not even able to meet their community based therapist or counsellor prior to release, let alone have the opportunity to develop the appropriate relationship and rapport.

There are, however, only two youth detention centres in Queensland, which means that a number of young people will be some distance from their home communities and the services they need. Consideration needs to be given to how computer based and other technologies could facilitate contact with relevant community based services, through Skype or similar technology possibly in conjunction with services provided within the detention centre.

The schools at the detention centres are also of importance since the evidence shows the strong link between disengagement from school and involvement in offending behaviour. The work of the detention schools and their staff is, however, undermined when young people are refused enrolment when they return to the community. Education Queensland must work with Youth Justice Services to find ways to properly integrate young people back into mainstream education as a matter of priority.

7. Current cultural programs and services and their effectiveness in addressing the specific needs of Aboriginal and Torres Strait Islander young people in youth detention.

YAC strongly endorses the need for culturally appropriate programs for Aboriginal and Torres Strait islander young people, particularly due to the level of overrepresentation of Indigenous young people in the justice system. The evidence indicates that these programs and services are likely to be most effective if delivered by Aboriginal and Torres Strait Islander led services or staff and these agencies are best placed to comment on the current programs and what else is required.

8. A comparative assessment of the current policies, practices and programs relating to the terms of reference in youth detention centres in Queensland and other Australian jurisdictions.

9. Best practice or international models of youth detention

YAC does not have the resources to be able to undertake what would be an extensive project to respond to these two items. It is anticipated that there are academics well-placed to assist with these. Our general comment would be that all aspects of youth detention must be compliant with Australia's international commitments as a minimum. Detention centres need to respond to the issues bringing a young person into ongoing contact with the criminal justice system, in collaboration with the relevant Youth Justice Service Centre, community organisations and families and properly prepare the young person for transition back into the community – not to do so is a missed opportunity and a significant failure on the part of the adults who have the ability to influence a young person's situation.