



ICS

ACT Inspector
of Correctional
Services

REPORT OF A REVIEW OF A DETENTION PLACE

by the

**ACT INSPECTOR OF
CORRECTIONAL SERVICES**

*Healthy Centre Review
of Bimberi Youth
Justice Centre 2020*



*'There are no bystanders –
the standard you walk past
is the standard you accept'*

– Lieutenant General David Morrison,
AO, Chief of Army (2014)

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We acknowledge the traditional custodians of the ACT, the Ngunnawal people. We acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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Justice Centre 2020*

Neil McAllister
ACT Inspector of Correctional Services
June 2021

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Foreword

This report covers the first Healthy Centre Review of Bimberi Youth Justice Centre (Bimberi) conducted by the ACT Office of the Inspector of Correctional Services (OICS). Extensive preparatory work for this review was conducted by the Assistant Inspector, Holly Fredericksen, who also lead the writing of this report. The Deputy Inspector, Rebecca Minty, also carried a significant workload for the planning and executing this review and lead the team for the onsite component. We were very fortunate to have four subject experts join the review team (see **Appendix 1**).

I note that this review reflects the situation at Bimberi in late 2020 and this will provide a benchmark for OICS future reviews of Bimberi.

I would firstly like to thank the 12 young people at Bimberi who agreed to be interviewed and those who spoke to us informally while the review team was onsite. Hearing your voices was an essential part of this review and we are very appreciative of the openness with which you told us about your experiences at Bimberi and your patience in responding to so many questions.

I am also appreciative of the support and cooperation we received from the Community Services Directorate, starting with Tina Brendas, Executive Branch Manager Bimberi Residential Services, Alison Grace, Deputy Centre Manager, Kate Spencer, Principal Practitioner, other members of the senior management team at Bimberi and all the Bimberi staff we had contact with during the review. Thank you also to the staff at Murrumbidgee School and Justice Health Services who were generous with their time in speaking to us and promptly responded to our requests for information.

Many non-government organisations and individuals also made important contributions to this review. In particular, I am grateful to Eliza Moloney from ACT Council of Social Service for arranging a community forum to enable input to the review.

I would also like to thank our colleagues from the South Australia Training Centre Visitor and the Western Australia Inspector of Custodial Services for sharing their expertise in conducting reviews such as this.

Finally, I would like to thank the ACT Human Rights Commission, particularly Jodie Griffiths-Cook, Public Advocate and Children and Young People Commissioner, and her team, for their support of our work and the information they contributed to this review.



Neil McAllister
ACT Inspector of Correctional Services
June 2021

Glossary

ACTCS	ACT Corrective Services
ADS	Canberra Health Alcohol and Drug Services
ALS	Aboriginal Legal Service NSW/ACT
AMC	Alexander Maconochie Centre
AVL	Audio-visual link
Bimberi	Bimberi Youth Justice Centre
Bimberi Handbook	A book given to young detainees at admission that provides them with information about the Bimberi Youth Justice Centre
Bimberi Oversight Group	A group consisting of representatives from Bimberi and bodies who oversight Bimberi that meets bi-monthly to discuss systemic and thematic issues at Bimberi
Bimberi staff	All staff employed by the Community Services Directorate who work at Bimberi Youth Justice Centre
BMP	Behaviour Management Plan
Cabin	A young detainee's room within the accommodation unit. It consists of a bed, desk, toilet and shower
CCTV	Closed circuit television
CHART	Changing Habits and Reaching Targets program
Client Services	A team at Bimberi Youth Justice Centre that consists of the Principal Practitioner, Programs and Services Manager, Family Engagement Officer and Sports and Recreation Officer
Client Services Meeting	A weekly meeting where individual young detainees' care and progress in Bimberi Youth Justice Centre is reviewed, attended by case managers and staff from Bimberi Youth Justice Centre, Forensic Mental Health Services, Justice Health Services and Murrumbidgee School
CMH ART	Custodial Mental Health Assertive Response Team
CMH-CA	Custodial Mental Health – Child and Adolescent
Code lockdown	When young detainees are secured in their cabins in response to an incident to allow more staff to respond
CSD	Community Services Directorate
CTU	Court Transport Unit (part of ACT Corrective Services)
CYP Act	<i>Children and Young People Act 2008</i>
CYPS	Child and Youth Protection Services
CYRIS	Electronic record-keeping system used at Bimberi Youth Justice Centre

DAIP	Disability Action and Inclusion Plan
EAP	ACT Public Service Employee Assistance Program
Executive Branch Manager	Director of Bimberi Youth Justice Centre
Extended overnight lock-in	When young detainees are released from their cabins later than the scheduled 9am un-lock
FMHS	Forensic Mental Health Services
FOI Act	<i>Freedom of Information Act 2016</i>
GP	General Practitioner
HR Act	<i>Human Rights Act 2004</i>
HRC	ACT Human Rights Commission
ICS Act	<i>Inspector of Correctional Services Act 2017</i>
JHS	Justice Health Services
Muir report	Report of an independent review conducted by Mr Peter Muir of a major incident that occurred at Bimberi on 26 August 2019
Murrumbidgee School	The school in Bimberi Youth Justice Centre, run by the Education Directorate
NDIS	National Disability Insurance Scheme
OICS	Office of the ACT Inspector of Correctional Services
OV	Official Visitor for Children and Young People
PACYPC	ACT Public Advocate and Children and Young People Commissioner
PBL	Project-based learning
Review standards	ACT Standards for Youth Detention Places
RN	Registered Nurse
SMD	Special Management Direction
Team Leader	Youth detention officer in charge of one side of an accommodation unit
Unit Manager	Youth detention officer in charge of a whole accommodation unit
Winnunga	Winnunga Nimmityjah Aboriginal Health and Community Services
YLS/CMI	Youth Level of Service/Case Management Inventory assessment tool
Young detainees	Children and young people detained at Bimberi Youth Justice Centre
Youth detention officer	An operational staff member at Bimberi Youth Justice Centre who is responsible for the day-to-day care and management of young detainees

Executive summary

The Office of the ACT Inspector of Correctional Services (OICS) is pleased to present its first Healthy Centre Review of Bimberi Youth Justice Centre (Bimberi). The methodology adopted for this review is set out in **Appendix 1**. It included interviews with young detainees, a staff survey, bilateral meetings and onsite observations. In addition to our three staff, OICS engaged four contractors with different areas of expertise to form the review team.

The OICS carries out its reviews against published criteria known as the ACT Standards for Youth Detention Places. The standards provide an independent tool for OICS to examine whether youth detention places and services meet the “healthy centre” test. The healthy centre test is based on four principles:

- **Safety:** young detainees, particularly the most vulnerable, are held safely and staff and visitors feel and are safe.
- **Respect:** all persons are treated with respect for their human dignity.
- **Purposeful activity:** young detainees engage in activity that is likely to benefit them.
- **Rehabilitation and prepared for release:** young detainees are supported to connect with their family and the community; supported to rehabilitate; and prepared for release back into the community.

Our assessment of Bimberi’s performance in each of these areas is detailed below.

1. Safety

The review team was pleased to find that most of the young detainees we interviewed felt physically and emotionally safe at Bimberi. When asked what makes them feel unsafe, most young detainees said conflicts between young detainees.

The admissions and inductions process at Bimberi is generally sound, and appropriate physical and mental health assessments are conducted. However, the hard surfaces and austere nature of the physical environment of the admissions unit may present particular challenges for young detainees with disabilities. In addition, young detainees are provided with comprehensive information about Bimberi at induction, but it needs to be presented in ways that are more easily accessible and disability friendly.

The review team is of the opinion that the underlying security classification system is flawed, particularly because it is heavily reliant on factors the young detainees cannot change, and it is a long time between classification reviews. We formed the view that the classification system is unnecessary for a centre this small, and a more specific alerts system should be used instead.

Recommendation 1:

That the ACT Government remove sections 163 and 190 from the *Children and Young People Act 2008*, which relate to security classifications.

Recommendation 2:

That Bimberi Youth Justice Centre review the alerts system with a view to identify the risks relating to young detainees more specifically.

The review team found the incentive scheme to generally be sound, but some improvements could be made to the weekly goals and the feedback given to young detainees. In addition, the use of Behaviour Management Plans (BMPs) and Special Management Directions (SMDs) is a good way to individually manage young detainees but there is room for improvement in the development of these documents.

Recommendation 3:

That Bimberi Youth Justice Centre ensure that the weekly goals for young detainees in the incentive scheme have a therapeutic focus by drawing on case plans and other relevant information.

Recommendation 4:

That Bimberi Youth Justice Centre implement developmentally and disability responsive methods for providing young detainees with feedback on how they are progressing with their weekly incentives.

Recommendation 5:

That Bimberi Youth Justice Centre conduct a review of Behaviour Management Plans and Special Management Directions to ensure the process for preparing them takes account of all relevant information and expertise, and the documents are appropriate for the target audience.

The review team considered the various forms of segregation and separation used at Bimberi. We found that the use of time out when it occurs in a locked room is a potential form of segregation and so needs legislative safeguards put in place for its use. In addition, some young detainees told us that time out heightens them more and so we have recommended that Bimberi ensure they have individual strategies in place for young detainees to ensure time out has a therapeutic focus.

Recommendation 6:

That the ACT Government amend the *Children and Young People Act 2008* to provide a legislative basis and appropriate safeguards for the use of time out when it occurs in a locked room.

Recommendation 7:

That Bimberi Youth Justice Centre include in Behaviour Management Plans individualised strategies for ensuring that time out has a therapeutic focus.

Given the small population of Bimberi and the need to manage association risks, sometimes young detainees are housed in accommodation units by themselves. While the review team saw evidence of this being managed appropriately, there is no notified policy or procedure on what safeguards are in place to minimise negative effects on young detainees.

Recommendation 8:

That the Community Services Directorate notify a policy under section 166 of the *Children and Young People Act 2008* that clarifies when a young detainee can be placed under separation by being accommodated in a unit by themselves and provides appropriate safeguards for it use.

This review did not cover the security aspects of the centre because a recent review conducted by Mr Peter Muir examined this area. We did look at the searching of young detainees and found it positive that young detainees are not routinely strip searched. The strip search room, which doubles as a shower and change room, does have a CCTV camera in it which we believe is restricting young detainees' right to privacy.

Recommendation 9:

That Bimberi Youth Justice Centre urgently remove the CCTV camera in the shower and change room in the Coree Unit.

It is positive that Bimberi has moved to a new electronic record-keeping system (CYRIS) and, once teething issues are solved, we believe this will significantly improve Bimberi's record-keeping and data collection.

A key issue raised with the review team by multiple sources was information sharing and cooperation between the three Directorates working at Bimberi. The Community Services Directorate (CSD) is responsible for administering Bimberi, the Education Directorate runs Murrumbidgee School in Bimberi, and Canberra Health Services is responsible for health services at Bimberi. The review team identified that Bimberi and Murrumbidgee School need to enhance their mutual understanding of what information can and should be shared. The weekly Client Services Meeting is the key forum for Directorates to share information about young detainees and to collaborate on plans for their care and management. The review team found it is not operating effectively.

Recommendation 10:

That Bimberi Youth Justice Centre and Murrumbidgee School develop and implement a plan for enhancing cooperation and appropriate information sharing between Bimberi Youth Justice Centre staff and Murrumbidgee School.

Recommendation 11:

That the Community Services Directorate review and evaluate the effectiveness of the Client Services Meetings in providing appropriate outcomes for the care and management of young people.

The review team found that CSD has a framework in place for supporting staff but reports from Bimberi staff suggest it needs improvement. The review team also found that Aboriginal and Torres Strait Islander staff would benefit from additional support.

We are concerned that the role of youth detention officers is not properly represented during recruitment because they are called 'youth workers' and the position description does not reflect key responsibilities of the role. Generally, staff training meets the needs of staff, but there are some areas for improvement.

Transparency and public accountability are important for closed environments such as Bimberi. The review team believes that Bimberi's Practice Guidelines should be published on the ACT Open Access portal so that current information about the operations of Bimberi is readily available to oversight agencies, visitors and any other interested parties.

2. Respect and dignity

The individualised approach Bimberi takes to young detainees is one of its key strengths. The review team observed some very positive interactions between young detainees and staff, and overall found that interactions are generally respectful.

The built environment young detainees live in was found to meet our expectations and clothing, bedding and hygiene items were all appropriate. However, the review team considers it unsatisfactory that not all young detainees have a chair in their cabin.

Young detainees had mixed opinions about the food provided at Bimberi. It is good practice that Bimberi commissions an independent review of their food and drink annually. The review team notes that young detainees do not have access to food when they are secured in their cabins for 13.5 hours overnight (and longer if there is a reason unlock cannot take place as planned) and there are no self-catering options at Bimberi.

Some young detainees told the review team that they feel they do not have a voice in Bimberi. The review team is of the opinion that Bimberi needs a formal mechanism for consultation with young detainees.

Recommendation 12:

That Bimberi Youth Justice Centre develop a formal consultative mechanism with young detainees that enables their views and concerns to be heard and for feedback to be provided to them.

The review team also found that the internal complaints system at Bimberi lacks independence because of the involvement of Bimberi staff at all stages, and it does not adequately address the inherent risks of reprisals against young detainees for making a complaint. However, there are appropriate avenues for young detainees to make complaints to external agencies, including the Official Visitors and Human Rights Commission.

Most young detainees at Bimberi are on remand. Overall, the review team found that their unconvicted or unsentenced status is respected at Bimberi. However, young detainees on remand told us that they cannot access leave, and the relevant policy is unclear on this issue. A young detainee's legal status should only be considered if it is relevant to a specific risk relating to leave and so it needs to be clarified in policy that young detainees on remand can apply for leave.

The distinct needs of young women and girls in Bimberi were generally found to be recognised and respected. However, it was difficult for the review team to gather evidence on this due to the small number of young women in Bimberi at the time of the review.

There is room for improvement in the support provided for Aboriginal and Torres Strait Islander young detainees to maintain their connection to culture. Aboriginal and Torres Strait Islander organisations deliver some programs at Bimberi, but the spiritual centre and fire pit are underutilised, and staff need more training on cultural awareness.

Recommendation 13:

That Bimberi Youth Justice Centre arrange for the spiritual centre and the fire pit to be used for regular yarning circles to connect Aboriginal and Torres Strait Islander young detainees with their community and culture.

Recommendation 14:

That the Community Services Directorate develop an Aboriginal and Torres Strait Islander Cultural Competency Framework specifically for Bimberi Youth Justice Centre that ensures that all aspects of Bimberi Youth Justice Centre's services are culturally competent and safe, including through appropriate staff training.

The review team found that there are some positive developments happening at Bimberi in relation to disability, especially under the ACT Disability Justice Strategy 2019–2029. Some key areas for improvement are data gathering on the prevalence of disability among young detainees, screening for disability, communicating with young detainees in disability-responsive ways and staff training on disability awareness. The Allied Health Pilot is an excellent initiative and, pending its evaluation, the review team believes it should be continued.

Recommendation 15:

That the Community Services Directorate provide ongoing funding for allied health services in Bimberi Youth Justice Centre.

Recommendation 16:

That Bimberi Youth Justice Centre incorporate mandatory basic training in disability awareness in the youth justice environment for all staff, with refresher training at appropriate intervals.

Overall, the health services provided at Bimberi are appropriate. Justice Health Services staff do need a more private office space so that patient confidentiality is not compromised. The review team also found that there is no comprehensive health promotion and education program for young detainees at Bimberi. After issues with medication management in the past, the review team was pleased to see that improvements have been made to medication administration at Bimberi that appropriately manage risks.

Recommendation 17:

That Bimberi Youth Justice Centre consult with Justice Health Services to find a workable solution for Justice Health staff office space that does not compromise patient confidentiality.

Recommendation 18:

That Justice Health Services commission an independent review of the health education model at Bimberi Youth Justice Centre with a view to identifying gaps and developing an evidence-based comprehensive health education program.

Regarding mental health, the review team found that there is a gap in the support provided for mild-to-moderate mental health conditions and grief and loss support. In the forensic mental health space, concerns were raised about the lack of communication of the reason psychotropic medication was prescribed when young detainees are released. The support for young detainees identified as at risk of self-harm or suicide was found to be appropriate.

Recommendation 19:

That Bimberi Youth Justice Centre provide a dedicated psychologist function to enhance the capacity of Client Services to provide psychological support and programs to young detainees.

3. Purposeful activity

The structured day at Bimberi is positive, though some young detainees would prefer to be secured in their cabins later than 7:30pm. Young detainees also told us that they would like to be able to mix more with other young detainees, such as by attending programs and activities together. Due to the complexity of this issue, the review team was unable to look at it in more depth in this review.

In 2019–20, Bimberi experienced a long period of operational lockdowns caused by staff shortages. This decreased in April 2020 after recruitment was conducted. Bimberi also locks down the centre in response to incidents, which can occur regularly. Young detainees strongly expressed that they felt this was unfair. The review team believes other options to locking down the whole centre need to be considered. In addition, lockdowns in response to incidents, and instances of young detainees being unlocked late from their cabins in the morning need to be recorded on a central lockdown register that can be easily viewed by oversight agencies.

Recommendation 20:

That Bimberi Youth Justice Centre provide an options paper for discussion at the Bimberi Oversight Group on ways to avoid centre-wide operational lockdowns in response to incidents, and strategies to mitigate the impact of those lockdowns on young detainees if unavoidable.

Young detainees told us that they enjoy education at Murrumbidgee School at Bimberi. The use of project-based learning is a strength. Education at Bimberi would be enhanced by the introduction of a restricted internet platform. A long-term plan for Year 10 and 12 certifications also needs to be developed so that Murrumbidgee School is not having to negotiate every year with other schools to get them to certify it.

Recommendation 21:

That the Education and Community Services Directorates establish an appropriate restricted internet platform to support the education of young detainees, with a plan for implementation developed within six months of the tabling of the government response to this report.

Recommendation 22:

That the Education Directorate make formal arrangements around Year 10 and Year 12 certification for young detainees completing their education through Murrumbidgee School.

Bimberi provides a range of recreational activities and these are adapted to suit young detainees' interests. Young detainees told the review team that they would like more activities to do in their cabins and unit and many reported that they are bored when secured in their cabins.

4. Rehabilitation and preparation for release

It is positive that Bimberi has a Family Engagement Officer position who is responsible for helping young detainees stay connected to their families and other significant people in their lives. Young detainees are able to access visits, but video call technology is not available to assist those who struggle to travel to Bimberi. The visits centre is a clean and friendly environment. Young detainees have four free phone calls and then can purchase up to 15 more using their incentive points. Some young detainees told us they want greater access to phone calls. The review team considers it inappropriate to include phone calls in the incentive scheme.

Recommendation 23:

That Bimberi Youth Justice Centre introduce video call technology for social visits.

Recommendation 24:

That Bimberi Youth Justice Centre remove phone calls from the incentive scheme to ensure that contact with family is not apportioned according to behaviour. This should not result in a reduction to the current maximum number of calls young detainees can make, that is, 19 phone calls per week.

Young detainees frequently attend court by audio-visual link. The review team found that when this occurs measures are lacking that would ensure young detainees can speak to their lawyer before and after court, and that the practice of having a Bimberi staff member sit with them during court without the Magistrate or Judge knowing is inappropriate.

Recommendation 25:

That Bimberi Youth Justice Centre develop a framework in conjunction with legal service providers in the ACT, ACT court staff and relevant oversight entities about how to support young detainees before, during and after court appearances by audio-visual link.

Child and Youth Protection Services operates a single case management model where young detainees in both the child protection and youth justice systems have the same case manager for both matters. Generally, young detainees did not see their case manager as someone who assists them with their rehabilitation and reintegration needs while in Bimberi. During the review, there was one young detainee who will be transferred to the Alexander Maconochie Centre and the review team found that this was being appropriately managed.

The review team found that the lack of a throughcare program for young detainees is a major gap. There is a Transitions Officer at Murrumbidgee School who connects young detainees with school or work in preparation for release. However, in other areas young detainees lack the support they need, especially since the Bendora Transition Unit was closed.

Recommendation 26:

That the Community Services Directorate take urgent action to implement recommendation 14 in the ACT Human Rights Commission's 2019 *Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre* about implementing a systemic program of throughcare at Bimberi. This should be developed jointly with ACT Health and the Education Directorate.

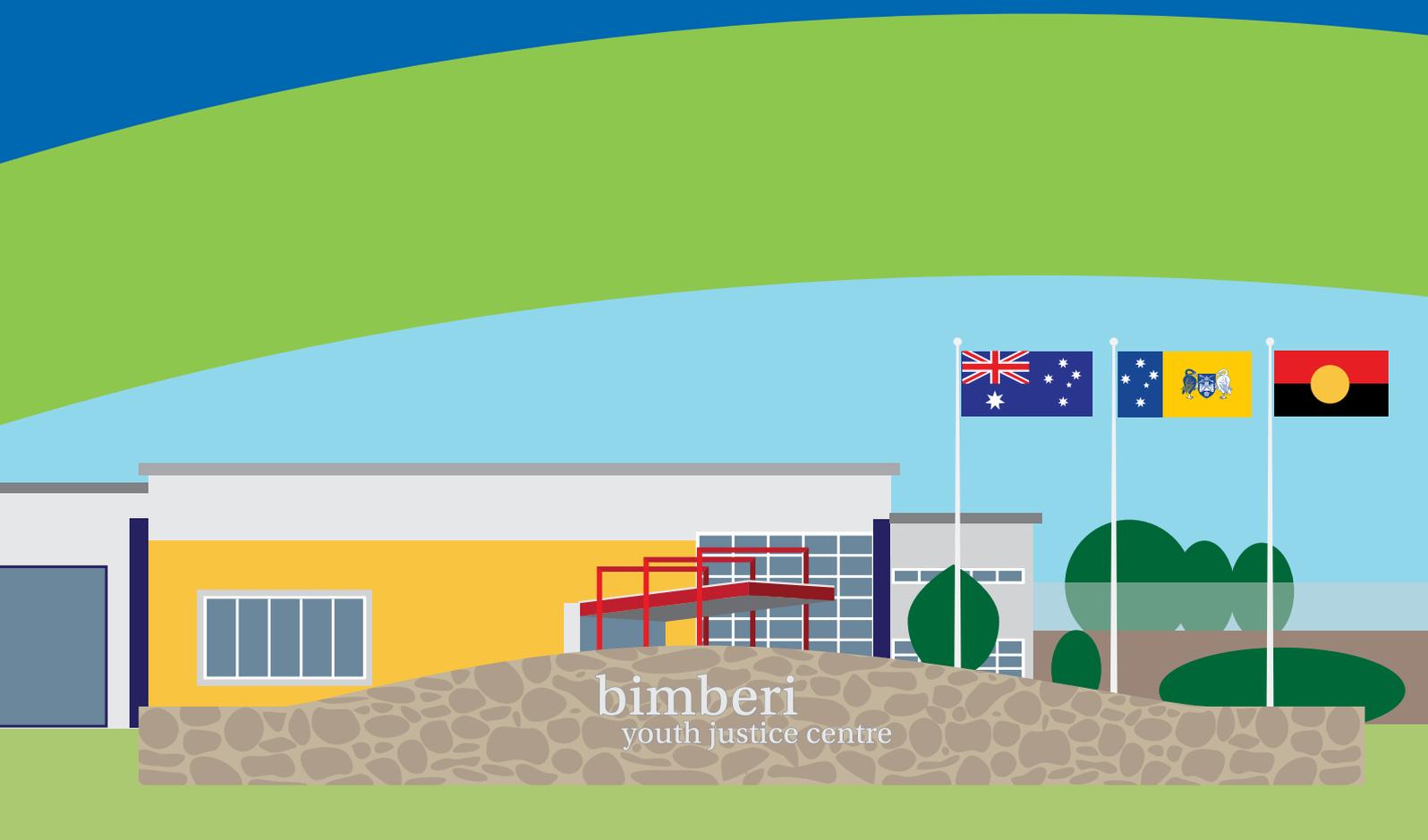
While some therapeutic programs are offered in Bimberi, the review team found the approach to having programs delivered was ad hoc rather than based on what therapeutic outcomes young detainees need. The core criminogenic needs relating to violence are also not being adequately addressed through programs in Bimberi. It was positive to see some new programs being trialled that aim to build young detainees' capacity to self-regulate.

Recommendation 27:

That the Community Services Directorate review the programs and services available in Bimberi Youth Justice Centre to identify the current therapeutic outcomes for young detainees and the gaps that need to be addressed.

CHAPTER 1

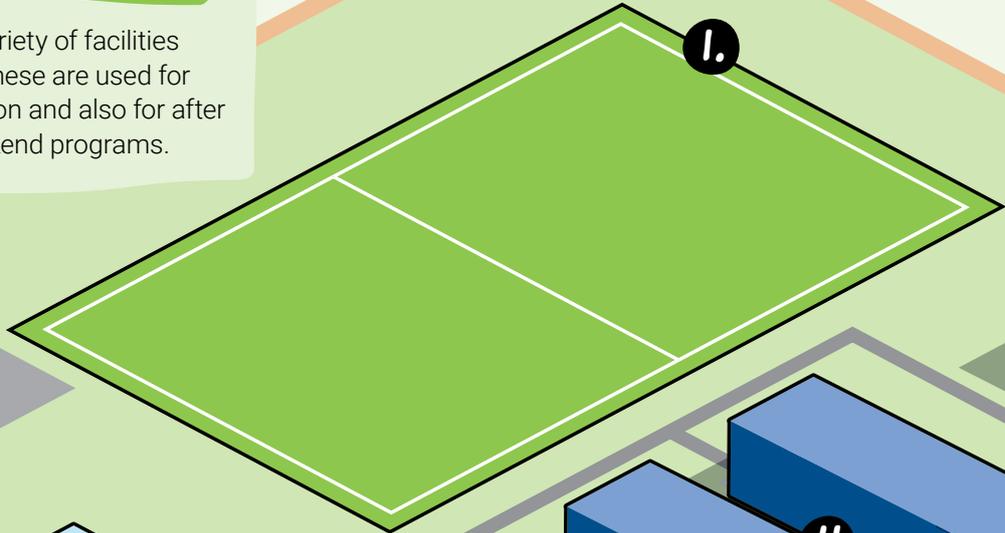
Introduction



Bimberi Youth Justice Centre

1. Gym, indoor pool and oval

Bimberi has a variety of facilities for recreation. These are used for physical education and also for after school and weekend programs.



Bendora

5.

Majura

5.

4.

6.

4. Education

Murrumbidgee School operates from the education building where there are classrooms, a woodwork room, a metalwork room, an art room, a music room and vegetable gardens.

5. Residential units

Each young detainee has a room in a residential unit with a bed, desk and bathroom. There is a communal living space, laundry and courtyard in each wing of the unit. An officer station is in the middle of each unit.

6. Spiritual centre

This is a space for spiritual and cultural activities and programs to be held for young detainees. There is also a fire pit and yarning circle outside.

1. Introduction

1.1 About Bimberi Youth Justice Centre

Bimberi is the ACT's only youth detention facility. It accommodates children and young people from 10 to 21 years of age who have been refused bail or sentenced to a period of detention. It was the first youth detention centre in Australia designed and purpose-built to meet human rights standards.

Child and Youth Protection Services (CYPS) in CSD has administrative responsibility for Bimberi. Primary health services and forensic mental health services are provided by Justice Health Services (JHS) within Canberra Health Services. The Education Directorate is responsible for delivering education to young detainees through Murrumbidgee School, which is onsite.

Bimberi has 40 beds over four separate accommodation units and are currently funded for 22 young detainees. Young detainees are accommodated in single 'cabins', each with an ensuite. Within each unit are communal spaces, including a laundry, lounge room and courtyard. From July 2019 to June 2020, Bimberi had 15 young detainees on an average night and four of these were female.¹

1.2 Authority for this review

1.2.1 Legislation

The Office of the ACT Inspector of Correctional Services (OICS) was established with the passage of the *Inspector of Correctional Services Act 2017* (ICS Act). In December 2019, provisions in the ICS Act that gave OICS oversight of Bimberi Youth Justice Centre (Bimberi) came into effect. Under section 18(1)(a)(ii), OICS is required to examine and review Bimberi at least once every two years. This is the first review conducted under that section.

1.2.2 Review standards

The OICS carries out its reviews against published criteria known as standards. OICS developed an interim version of the ACT Standards for Youth Detention Places for this review. These will be revised, and a final version produced after this report is published.

The standards provide an independent tool for OICS to examine whether ACT youth detention centres and services meet the "healthy centre" test. This test was devised by the World Health Organization and has been adopted as the basis for prison and youth detention standards in other jurisdictions, including the United Kingdom. The healthy centre test is based on four principles:

- **Safety:** young detainees, particularly the most vulnerable, are held safely and staff and visitors feel and are safe.
- **Respect:** all persons are treated with respect for their human dignity.
- **Purposeful activity:** young detainees engage in activity that is likely to benefit them.
- **Rehabilitation and prepared for release:** young detainees are supported to connect with their family and the community; supported to rehabilitate; and prepared for release back into the community.

¹ Australian Institute of Health and Welfare (AIHW), *Youth detention population 2019–20* (2020), Table S7.

Under each of these four principles there are detailed standards, indicators (a non-exhaustive list of outcomes that may be indicative of that standard being met) and examples of sources of evidence that OICS may use in assessing that standard. This was used to guide the review team when conducting this review of Bimberi and the standards are referred to throughout this report.

1.2.3 Human rights applicable to young detainees in the ACT

The *Human Rights Act 2004* (HR Act) sets out the human rights which are recognised and protected in the ACT. Children and young people have all of the rights set out in the HR Act and there are some rights that provide them with specific protection. The rights particularly relevant to young detainees are:

- protection of the child (s 11(2))
- right to privacy (s 12)
- right to humane treatment when deprived of liberty (s 19)
- rights of children in the criminal process, including for accused children to be treated in a way that is appropriate for a person of the child's age who has not been convicted (s 20)
- rights in criminal proceedings, including the right for children to have procedures that take account of their age and the desirability of promoting the child's rehabilitation (s 22)
- cultural and other rights of Aboriginal and Torres Strait Islander peoples and other minorities (s 27)
- right to education (s 27A).

The HR Act requires public authorities, which includes all staff at Bimberi, to act compatibly with the rights in the HR Act and to give proper consideration to relevant rights when making decisions.

This human rights framework is reflected in the *Children and Young People Act 2008* (CYP Act) and the *Charter of Rights for Children and Young People in Bimberi* (Charter). The Charter was published in 2017 and aims to provide a clear, accessible framework for outlining the rights and responsibilities of young detainees in Bimberi.

Relevant human rights are considered throughout this report.

1.3 Limitations of this review

Due to a recent review conducted by Mr Peter Muir, the review team decided not to examine the security of the centre in-depth. Other topics that are not covered in this report are:

- Strategic and performance planning and evaluation
- LGBTIQ young detainees
- Young detainees in care and protection
- Young detainees from culturally and linguistically diverse backgrounds.

1.4 Language and terminology

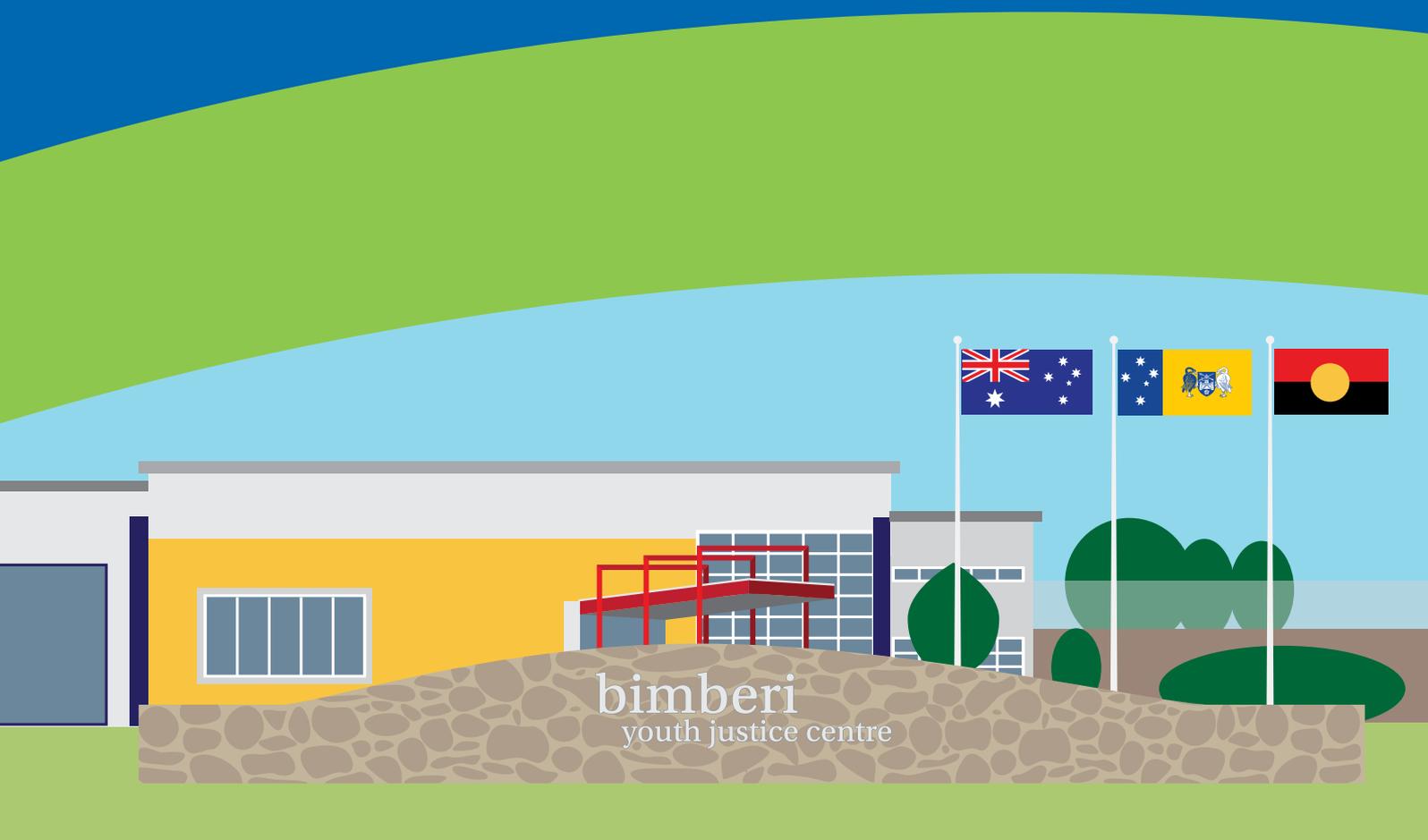
In this report we have used the terms “young detainee” and “youth detention officer” because these are the terms used in the CYP Act. Bimberi uses “young person” and “youth worker”, but we believe using those terms in this report would be confusing to the lay person. We acknowledge that “young detainee” does not reflect the individuality of people detained in Bimberi or remind us that most of them have not been convicted or sentenced for the offence they are in Bimberi for. Nevertheless, we have chosen to use it in this report because of its accuracy.

1.5 Implementation of the recommendations in this report

OICS prefers to follow up on the implementation of recommendations the ACT government has agreed to before the next whole-of-centre review is conducted. To assist with this, OICS requests that, after responding to the recommendations, the ACT Government provide an update to OICS regarding the implementation of agreed recommendations every six months.

CHAPTER 2

Safety



2. Safety

2.1 Young detainees' safety

In the interviews with young detainees, we asked whether they felt safe at Bimberi. Nine young detainees said they feel safe, two said they feel unsafe, and one said sometimes they feel safe. When asked what would make them feel unsafe, the majority of young detainees said conflicts between young detainees.

The review team observed that staff had a good understanding of the dynamics between young detainees. Emerging or ongoing concerns or behaviour to watch for was discussed in the morning briefing (a daily meeting at shift changeover that has key operational staff and management, health, and education staff). Youth detention officers were also observed to step in if "banter" between young detainees was escalating.

*"[Bimberi] f***s with my head"*

"can't trust no one in here"

"[feel safe] cause nothing can get in"

Comments made by young detainees in interviews

Finding 1:

That most young detainees feel safe at Bimberi Youth Justice Centre and the primary reason they feel unsafe is due to conflicts between young detainees.

2.2 Early days in custody

2.2.1 Transport

Young detainees can be transported by Bimberi staff, police or the ACT Corrective Services (ACTCS) Court Transport Unit (CTU). In OICS 2020 [Review of the ACT Corrective Services Court Transport Unit](#), we identified some issues that have arisen from having CTU staff transport young detainees and manage them in the court cells. As those issues were covered in that review, we have not looked at them again here. OICS will be following up on the recommendations that the ACT government agreed to implement from that review.

Members of the review team viewed Bimberi's secure escort van. It was in very good condition, assisted by being nearly new, and was clean. It also has the required safety features, including CCTV coverage of each pod, seat belts and intercoms for young detainees to speak to officers.

For escorts that do not require a secure vehicle, Bimberi uses ACT government fleet vehicles.

Photo 1: Bimberi's secure escort van



Source: OICS 2020

2.2.2 Reception, admission and induction

The review standards require that young detainees are safe and treated with respect on arrival and during the initial period in Bimberi. In addition, risks must be identified and supported according to individual needs. This is essential because of the vulnerability of young detainees in the initial hours of detention.

The review team undertook a mock admission and induction at Bimberi. Team members were walked through what a youth detention officer does to admit a young detainee to the centre, beginning with meeting the vehicle at the sallyport. It is good practice that the officer checks the legal authority for detention documents and checks that the young detainee does not have any observable health concerns before commencing the admission process.

After a young detainee is removed from the vehicle, they are taken into a waiting room before they enter the admission wing of Coree Unit. The review team found that Coree Unit is not particularly inviting or comfortable, especially as there is 'wear and tear' evident, including graffiti scratched into windows and other surfaces. The hard surfaces and flooring contributed to the environment not being particularly inviting. It is understandable that in an admissions unit hard surfaces are easier to clean. However, it may be particularly challenging for young people with auditory or sensory issues, as the sound bounced around. This, and other challenges that young people with a disability may face on admission, are discussed in section 3.2.4.

The next step in admission involves the youth detention officer deciding on the level of search required for the young detainee. Strip searches are not routine and do not occur often (Table 1). A strip search can only be conducted with the Manager or on-call Manager's approval.

Photo 2: Waiting room for new admissions in the Coree Unit



Source: OICS 2020

Table 1: Strip searches conducted at induction

Year	Inductions	Inductions strip searched
2017–18	209	7%
2018–19	169	0%
2019–2020	221	<1%

Source: Bimberi Headline Indicators Report, December 2020

After the search, the young detainee is given the opportunity to shower, and they are given clothing to change into. An induction interview is then conducted with the young detainee, where they are also told some information about Bimberi and given a copy of the *Bimberi Handbook*. The youth detention officer also contacts the person with parental responsibility for the young detainee. The young detainee is also given the opportunity to make a phone call, and they watch an induction video.

Young detainees may spend their first night on the admission side or on the residential side of Coree. They have to wait until they have been risk assessed before they are placed in one of the residential units.

Finding 2:

That the admission and induction process at Bimberi Youth Justice Centre appears sound. However, the admissions side of the Coree Unit is not a physically welcoming environment and young people with certain disabilities may find it particularly challenging.

Physical and mental health assessment

The review standard that initial checks of physical and mental health are carried out upon admission was found to be met. The review team found the joint assessment process (undertaken where possible) between a primary care nurse, mental health nurse and the young detainee to be commendable. This process minimises the risk of key mental health and physical health issues not being detected or appropriately managed.

The reception assessment documentation was comprehensive, but there was a lack of standardised screening tools for mental health. There was also a lack of flexible approaches for engaging with young detainees who may come into Bimberi and require a different approach to assessments at reception and induction.

Upon admission, all young detainees are placed on 5-minute observations until they have been assessed by Forensic Mental Health Services (FMHS). This is discussed further in section 3.3.5.

Finding 3:

That the physical and mental health assessments conducted at admission were appropriate.

Information given to young detainees

The review standard that young detainees understand their rights and what to expect during their time in custody was found to be partially met. Most young detainees we interviewed felt that they received the information they needed at induction. However, most could not remember how they got that information, that is, whether it was from staff, the induction video or Bimberi Handbook, or from other young detainees. Many young people we interviewed had been to Bimberi multiple times and were familiar with practices from their past experience.

Having an induction video is good practice as not all young detainees have the level of literacy required to comprehend the information in the Bimberi Handbook. However, the video contains a lot of information which the review team found to be quite overwhelming. There are also no captions and it was difficult to hear in the room it is viewed in as the sound bounced off all the hard surfaces. This is discussed further in section 3.2.4.

The Bimberi Handbook has recently been updated. We were advised that most young detainees do not read it at admission, but that they take it with them and sometimes refer to it during their time at Bimberi. Importantly, it contains a list of external agencies that can assist young detainees (such as the Official Visitors (OVs) and the Public Advocate and Children and Young People Commissioner (PACYPC)) and how to contact them. It is positive that the Bimberi Handbook is comprehensive in the information it covers, but the review team found that it is not written in Easy English, contains a lot of text and not many diagrams, pictograms or other creative ways of presenting the information.

Finding 4:

That comprehensive information about Bimberi Youth Justice Centre is provided to young detainees at admission and induction. However, the way the information is currently presented is overwhelming.

Photo 3: Admission interview room

Source: OICS 2020

Photo 4: Cell in Coree Unit – admissions side

Source: OICS 2020

2.2.3 Classification

The review team found that the current classification system at Bimberi is not making the care and management of young detainees easier and it may be making things more complicated than necessary. There are issues with how classification is being determined, the review period and the impact of classification on young detainees. Each of these is discussed below.

Bimberi is required to have a classification system under sections 163 and 190 of the CYP Act. The classification system Bimberi has adopted is much more suited to larger jurisdictions who have various placement options within the jurisdiction, such as centres that are high, medium or low security, or have high, medium or low security units within centres. This is not relevant to the ACT where there is only one centre where all units have the same security and are located within a secure perimeter. Dynamic security (that is, staff) is essentially the same for all units. In addition, the small number of young detainees at Bimberi at any one time (even if the centre was operating at maximum capacity) means that they can be and are managed individually. Because of this and the issues discussed below, the review team recommends that the requirement for a classification system at Bimberi be removed.

Bimberi's current classification system

Under section 190 of the CYP Act, the matters that must be considered when deciding on a young detainee's classification are:

- a) the reason for the detention, including the nature of any offence for which the young detainee is detained;
- b) the risks posed by the young detainee if the young detainee were to escape;
- c) the risk of the young detainee escaping;
- d) the risks posed by the young detainee while at a detention place;
- e) the risks to the young detainee of being accommodated with particular young detainees or in particular areas at a detention place;
- f) any other matter prescribed by regulation.

The *Children and Young People (Admission and Classification) Policy and Procedures 2018 (No 1)* states:

6.80 In undertaking a classification assessment, all relevant information must be obtained from internal and external sources to inform the assessment. This includes information known about:

- a) severity of current charge or offence
- b) severity of prior criminal convictions in the past five years
- c) history of escape or attempts to escape from a [sic] youth justice facilities, escorts, transport or police
- d) history of violence in detention
- e) prior youth offence convictions
- f) substance use history in the past two years
- g) mental health status
- h) stability factors at the time of arrest
- i) any other risks and alerts
- j) any other relevant information.

The majority of these factors are static. This means that they cannot be changed by a young detainee while they are in Bimberi to reduce their classification. One young detainee shared his perception that “there’s nothing you can do to get your classo down.” This impacts on the effectiveness of the incentive scheme because young detainees who are progressing well through the incentive scheme due to good behaviour might still be under tight restrictions due to their classification. There were some examples of young detainees being unmotivated to behave well to achieve points because they think it will not reduce the restrictions caused by their classification.

An assessment is made about the level of risk, ranging from ‘very low’ (1) to ‘high’ (4) based on a scoring system (Table 2). There is then the option for a ‘discretionary over-ride’ that can increase or decrease the point score based on some prescribed considerations. For example, ‘known gang affiliation/disruptive group’ increases points and ‘prior good institutional conduct’ decreases points.

In addition to this, a young detainee may be flagged with a risk alert, which is included in their security classification (Table 3). This results in a classification such as R3HE or S4AH. This system results in nine classification levels and up to four alerts for each classification. The review team believes that this is too many for the small number of young detainees in Bimberi at any one time.

Table 2: Bimberi classifications

Status	Risk	Points
Unclassified (U)	4 (High)	(not yet assessed)
Remand (R)	1 (Very Low)	5 or less
Remand (R)	2 (Low)	6–9
Remand (R)	3 (Medium)	10–14
Remand (R)	4 (High)	15+
Sentence (S)	1 (Very Low)	5 or less
Sentence (S)	2 (Low)	6–9
Sentence (S)	3 (Medium)	10–17
Sentence (S)	4 (High)	15+

Source: *Children and Young People (Admission and Classification) Policy and Procedures 2018 (No 1)*, 21 and ACT Community Services Directorate, *Initial Classification Form*.

Table 3: Bimberi risk alerts

A	At risk	Young person is at risk of harm to self or at risk of harm from other young people (which may or may not require a Segregation Direction)
H	Health	Young person has health issues requiring special attention in custody, including illness, infectious conditions, mental health issues or disability
S	Safety & security	Young person presents a risk to the safety of others or security of a detention place
E	Escape	Young person has previously escaped, attempted to escape or conspired to escape lawful custody, from a detention place or elsewhere

Source: *Children and Young People (Admission and Classification) Policy and Procedures 2018 (No 1)*, 21.

There are also some inherent problems with the scoring system:

- No distinction is made between sentenced young detainees and remanded young detainees concerning the current offence or charge. That is, a charge carries the same weight as a conviction. Young people should be treated as unconvicted persons and managed on known risks not hypothetical risks. It could also be a breach of the right of an accused child to be treated in a way that is appropriate for a person of the child's age who has not been convicted under section 20(2) of the HR Act.
- Prior convictions attract points, but how this relates to current security risks is not explained in the procedure, and the decision maker is not required to provide reasons for the decision. This could constitute discrimination pursuant to section 7(1)(k) of the *Discrimination Act 1991* as an irrelevant criminal record.
- Points are given for 'current concerns about mental health' (1 point) and 'diagnosed mental health problem requiring treatment or medication' (2 points), without an explanation about how this is a security risk. Without a requirement that there be a rational connection between mental health condition and security risk, that the decision maker documents, there is a real risk of discrimination contrary to the HR Act and *Discrimination Act 1991*. 'Mental health' also comes under the health alert flag that can be added to the classification, so it is unnecessary to also include it in the scoring.
- The score for 'history of escape' ranges from one to seven points and is also an alert flag. In the view of the review team, whilst a history of escape should be an alert for escorts, it is of far more limited relevance to how a young detainee is managed at Bimberi, and the weighting it is given should reflect this.

Finding 5:

That consideration of a young detainee's prior convictions as a security risk factor may amount to discrimination under the *Discrimination Act 1991*.

Finding 6:

That consideration of a young detainee's mental health as a security risk factor without requiring a rational connection between the two, may amount to a breach of the right to equality under the *Human Rights Act 2004* and discrimination under the *Discrimination Act 1991*.

Classification reviews

A classification review occurs as either a scheduled review or is triggered by an event or incident. Events that may trigger a classification review include:

- intelligence information
- being sentenced at court
- leave submission
- actual or threatened assault
- actual or attempted escape
- positive drug reading following drug testing

- found in possession of a weapon
- serious mental health concern
- significant change in charges.²

Scheduled reviews occur as set out in Table 4.

Table 4: Scheduled reviews of classification

Length of stay	Scheduled period
Remand	3 months
Sentence 3 months or less	1 month
Sentence over 3 months to 6 months	2 months
Sentence over 6 months	3 months

Source: ACT Community Services Directorate, *Instructions for completing classification forms*.

In 2018–19, young detainees in the ACT spent an average of 24 days on remand, with a median of two days.³ The median indicates that there are a significant number of young detainees on remand overnight and these detainees will not be classified. However, it also suggests that those who are classified may not be at Bimberi for long enough to have a scheduled review, as the review only occurs if they are there for three months. In the same period, young detainees spent an average of 95 days in sentenced custody, with a median of 37 days.⁴ In contrast to young detainees on remand, young detainees who have been sentenced have their classification reviewed every month (if sentenced to 3 months or less).

If a young detainee does have a scheduled review, there are only a few ways that they can reduce their classification score, for example:

- no disciplinary matters since last classification (-1 point)
- satisfactory participation in vocational/educational programs (-1 point) or successful completion and/or actively participating in vocational /educational programs (-2 points)
- satisfactory participation in offending behaviour program (-1 point) or successful completion and/or actively participating in offending behaviour programs (-2 points).⁵

Finding 7:

That the scheduled period between classification reviews for young detainees on remand is too long.

² *Children and Young People (Admission and Classification) Policy and Procedures 2018 (No 1)*, 23.

³ Australian Institute of Health and Welfare, *Youth justice in Australia 2018-19 (2020)* Tables S117 and S118. The average time spent on remand in the ACT from 2014-15 to 2018-19 was 27.6 days.

⁴ *Ibid*, Tables S124 and S126. The average time spent in sentenced detention in the ACT from 2014-15 to 2018-19 was 97.2 days.

⁵ ACT Community Services Directorate, *Classification Review Form* (undated).

Impact of classification on young detainees

Ideally, young detainees are accommodated according to their classification. However, in practice this is difficult to achieve with such a small number of young detainees and so many different classifications. The primary considerations for accommodation placements are gender, age, maturity and association issues between individuals.

The review team found it difficult to determine what restrictions were the result of a young detainee's classification and what was due to Special Management Directions (SMD), Behaviour Management Plans (BMP) or even what were privileges under the incentive scheme.

In interviews, young detainees frequently spoke about what risk level they are seen as being by Bimberi and how this affects what they can and cannot do in Bimberi. For example, joining education and recreational activities with their peers, including over weekend and school holidays, was seen as dependant on their risk level.

However, it was difficult to determine if restrictions were because of their classification or some other reason, such as the management of association issues. For example, a BMP provided to the review team states 'Staff will determine in each morning brief possible mixing options if [young detainee] continues to reach his goals'. An SMD provided to the review team also provides directions for 'adjustments to interactions' and 'placement of the young person' which can restrict their mixing with other young detainees. SMDs can also include directions relating to inventory and clothing, which restricts what a young detainee can have in their cabin. SMDs and BMPs demonstrate Bimberi's ability to manage young detainees individually.

Bimberi noted that not all young detainees have BMPs and SMDs and that classification can assist in risk managing young detainees' participation in activities. However, the review team is not convinced that a classification system adds value and believes that other existing systems that manage young detainees individually are sufficient or could be modified to replace the classification system.

Conclusion

The issues with the current classification system render it counterproductive. The review team is of the opinion that not only is the current classification system flawed, but that a classification system is not necessary in a centre the size of Bimberi. The population of Bimberi means that each young detainee can be managed individually. Therefore, we recommend that the requirement for a classification system be removed from the CYP Act.

However, this would make the alerts system more important so that certain risk factors for young detainees are clear to the staff that are responsible for their care and management. These would be a first indicator and then the staff member would know that they need to consult plans such as BMPs and SMDs for information on how to manage these risks. The alerts must be based on a risk assessment and reflect live risks, so they would need to be reviewed regularly.

'The classification system has done nothing but slow or stop the progress of young people at Bimberi. Most alarming has been the effect on young people not being able to adequately access essential programs that will assist in developing the required skills for life beyond Bimberi. Since this classification system was introduced there has been an increase in critical incidents and assaults on staff.'

Comment in staff survey

At the time of the review, the alerts system did not adequately indicate the nature of the risk. For example, the safety and security alert does not provide any information on how the young detainee is a risk to security and safety and the health alert is so broad that it encompasses issues from infection risk to allergies, and also includes disability which is inappropriate. This does not provide an immediate indication of the type of risk and so staff must specifically follow up, which is more difficult for staff who do not have access to CSD's information management system.

The alerts should be limited to a few important warnings for staff, and could include alerts such as:

- E High escape risk from escorts or leave
- V Risk of violence towards staff and other young detainees
- S Risk of self-harm.

Finding 8:

That the security classification system has fundamental flaws that render it counter-productive to the care and management of young people at Bimberi Youth Justice Centre.

Finding 9:

That, at the time of the review, the alerts system did not provide clear information to Bimberi staff and other relevant staff (for example, case managers, health staff and Murrumbidgee School staff) about an individual young detainee's risk factors that could impact on their care and management.

Recommendation 1:

That the ACT Government remove sections 163 and 190 from the *Children and Young People Act 2008*, which relate to security classifications.

Recommendation 2:

That Bimberi Youth Justice Centre review the alerts system with a view to identify the risks relating to young detainees more specifically.

2.3 Behaviour management

Bimberi's behaviour management framework is set out in the *Children and Young People (Behaviour Management) Policy and Procedures 2018 (No 1)*.⁶ It is designed to 'direct the provision of a safe environment for young people to undertake social and emotional development, and promote prosocial behaviours, while still responding to negative and challenging behaviour.'⁷ It has different ways to achieve this that includes both proactive and reactive strategies. The Principal Practitioner at Bimberi is currently undertaking a comprehensive review of the behaviour management framework.

⁶ Bimberi is required to have a behaviour management framework under s 297 of the *Children and Young People Act 2008*.

⁷ ACT Community Services Directorate (CSD), *Submission to the Inspector of Correctional Services' Healthy Centre Review* (September 2020), 20.

The review team also found that communication and coordination issues between staff from different Directorates is impacting the effectiveness of the behaviour management framework. Young detainees require consistent responses to clearly identified and defined behavioural problems to modify their behaviour. It was beyond the scope of this review to examine the differences in behaviour management procedures and responses. However, see section 2.5.2 for some further discussion. We do note that recently Murrumbidgee School modified their behaviour management strategies to better align with Bimberis'. This is a positive development to improve consistency for young detainees.

2.3.1 Incentives

The review standard that the behaviour management framework incorporates incentives to promote effort and good behaviour was found to be met. The current incentive scheme provides a strong base, but there are some improvements that could be made to give it more of a therapeutic focus and to improve feedback to young detainees on their progress.

Each day young detainees are awarded points for their good behaviour, with a maximum of 60 points available each day. Points are recorded three times a day on the Daily Incentive Record to allow young detainees to improve their behaviour throughout the day.

The incentive scheme has four levels. Each young detainee starts on level one and if they achieve a certain average of points over a four-week period, they will move up a level. Behavioural expectations and available rewards increase as the young detainee progresses through the levels. At each higher level they must maintain an average number of points or they will be moved back down a level.

In addition to achieving points through their daily behaviour, young detainees have weekly goals that they need to achieve to progress to the next level of the scheme. These are developed by Unit Managers in conjunction with the young detainee. The review team viewed a sample of Weekly Incentive Feedback Reports and found that these goals often lack specificity and are not linked to therapeutic goals. For example, a commonly used goal is 'be respectful to staff and other young people' rather than something more specific such as 'greet someone when they attend the unit'.

In 2019, the CYPS Audit Team conducted a review of the incentive scheme and identified similar issues with the weekly goals, including that they are often prescriptive of specific compliance behaviours and if they did reflect global behavioural change, they tended to replicate the prosocial behaviours already scored on a daily basis.⁸ One suggestion made in the audit was to give youth detention officers greater access to young detainee's case plans. Another option could be for Unit Managers to get input through a multi-disciplinary forum, such as the weekly Client Services Meeting, on what therapeutic goals the young detainee could be encouraged to achieve.

Finding 10:

That weekly incentive goals do not have a sufficiently therapeutic focus.

8 ACT Child and Youth Protection Services, *Audit Report and recommendations: Bimberis Incentive Scheme* (29 October 2019), 6.

Recommendation 3:

That Bimberi Youth Justice Centre ensure that weekly goals for young detainees in the incentive scheme have a therapeutic focus by drawing on case plans and other relevant information.

Young detainees are provided with a weekly incentive feedback report that their Unit Manager discusses with them. There are currently no developmentally appropriate and disability responsive translations of this verbal and written feedback to help young detainees understand the allocation of points and their progression. For example, this could be done with visual aids, score cards or a board in their cabin that records their points and weekly goals.

Finding 11:

That young detainees receive written and oral feedback on their progress in the incentive scheme that some may find difficult to understand.

Recommendation 4:

That Bimberi Youth Justice Centre implement developmentally and disability responsive methods for providing young detainees with feedback on how they are progressing with their weekly incentives.

Young detainees had mixed views about the incentive scheme. Some young detainees told us that they found it very difficult to meet Bimberi's behavioural expectations consistently for four weeks. This means that the scheme is de-motivating because they view the higher levels of the incentive scheme as unattainable. They also raised concerns about their points being recorded inaccurately and some were confused about why they had not progressed when they felt they have been behaving well. Other young detainees thought that the incentive scheme was fair. One young detainee was particularly positive about it and said that when you are doing well at achieving your points, people around the centre congratulate you and then it makes it easier to do well.

The relationship between the incentive scheme and classification can also reduce young detainees' motivation to progress to higher levels. The classification system is largely based on static risk factors, so young detainees may have restrictions placed on them due to their classification, despite achieving their points and goals in the incentive scheme. This is discussed further in section 2.2.3.

"why would you even bother trying"

"I'll never get there... I've tried for 14 months"

"I don't think it's fair... I'll always have a hiccup here or there."

"[when you get all 60 points in a day] it makes you feel really happy"

Comments about the incentive scheme made by young detainees in interviews

Purchases

Young detainees can use the points they have earned to purchase certain items each week. Young detainees told the review team that they would like some more healthy food options available for purchase. Looking at the purchase catalogue, this appeared to mostly be an issue on the lower levels of the incentive scheme. It is positive that a traffic light system is included in the purchase catalogue to indicate which items are more healthy choices than others.

Some young detainee raised with the review team that items in the purchase catalogue are more expensive than they would be in the community. The review team found this to be the case for a small number of items, but overall prices were equivalent to or, in some cases, slightly less than they would be in the community.

Young detainees can also purchase additional phone calls using their incentive points. The review team considers this to be inappropriate and this is discussed in further detail in section 5.1.2.

2.3.2 Discipline

The review standard that responses to misbehaviour are escalated as appropriate was found to be met through the framework set out in the CYP Act and policies and procedures. The CYP Act places negative behaviour into two categories: minor behaviour breach and behaviour breach. Under the *Children and Young People (Discipline) Policy and Procedures 2018 (No 1)*, negative behaviour by young detainees is viewed as on a continuum from behaviour causing no harm, to behaviour that causes minor, moderate or serious risk of harm. The response to the behaviour is to be proportionate to the severity of that risk of harm. At each stage of responding to the behaviour, there is discretion not to charge the young detainee and give them feedback or a warning instead.

Young detainees we interviewed told us that consequences for breaking the rules at Bimberi could be 'a breach', fines, time out and loss of privileges. Some young detainees expressed frustration that the rules change and that these changes are not communicated to young detainees. This means they do not find out a rule has changed until they get in trouble for breaking it. Some young detainees also shared with us their perception the rules are sometimes applied inconsistently, both depending on the youth detention officer imposing the consequences and that some young detainees 'get away with heaps'.

"Yesterday a young fella pumped a code and he still got to do a program. My program (gym) didn't happen. Happens all the time."

Comment made by a young detainee

It is important for young detainees' rehabilitation and development that they have predictability and consistency, tailored to their needs and capacity. However, there will never be complete uniformity in the application of rules by staff. The review team was not able to explore in any depth the issue of inconsistent rule application. We do note that in the behaviour management and discipline session of the induction training of youth detention officers, the importance of consistency was emphasised.

2.3.3 Plans and strategies for individual young detainees

For young detainees with complex behaviours, additional steps are taken to understand their behaviour, support behavioural change and manage risks. This includes the preparation of BMPs and SMDs by Bimberi staff. The review team found the approach of preparing tailored plans for behaviour management and other issues sound in principle, but in practice we were confused about the purpose of each document and how the two inter-relate. The review team was also of the view that the plans could have more of a therapeutic focus.

Behaviour Management Plans

Behaviour Management Plans are used for young detainees who display negative or challenging behaviour. They are developed shortly after admission for each young detainee entering Bimberi and reviewed at least fortnightly. Unit Managers are responsible for developing the plans and are to gather information from staff from CYPS, Bimberi, Murrumbidgee School, FMHS, JHS, and any other professionals working with the young detainee. They use this information to identify factors that contribute to the young detainee's negative behaviour and then develop strategies to address them.

Currently, Bimberi gathers information from different people involved in the young detainee's care, but there does not appear to be any consistent procedure for this. For example, there is no consistency about whether a report on the young detainee is to be provided by Murrumbidgee School and FMHS or whether these plans are to be discussed at the Client Services Meetings. The review team found that information available to Unit Managers was inconsistent and consultation and collaboration with key stakeholders was not always evident. We note that the Principal Practitioner was supporting the Unit Managers by providing relevant information to them, but consideration could be given to enhancing the capacity of and/or opportunities for Unit Managers to gather relevant information and utilising it to develop BMPs. The implementation of CYRIS may also assist with this if it facilitates access to relevant information.

The review team was of the view that BMPs are not currently drafted in a way that meets the needs of their stated audience. The practice guidelines on developing a BMP state that the primary audience of the BMP is the young detainee and so the language used needs to be positive and developmentally appropriate. The review team saw a sample of BMPs and noted some areas where improvements could be made, for example, developmentally tailored language, being more specific about the behaviour required of the young detainee (rather than general comments such as a young detainee 'will not make inappropriate comments') and consistently including both proactive and reactive strategies.

Finding 12:

That the development of tailored Behavioural Management Plans for each young detainee is good practice, but further work needs to be done to improve the content of the plans.

Special Management Directions

Special Management Directions are used to manage young detainees that pose a risk to themselves, such as self-harm, or to others, such as aggression. SMDs are developed on an as-needed basis, that is, not all young people will automatically have an SMD. Where a young detainee has a SMD they are reviewed at least every seven days. There is no mention of SMDs in the *Behaviour Management or Disciplines Policies and Procedures*. This is particularly concerning given that the SMD template states:

The following Special Management Directions (SMD) are assigned to [name] under the provisions of the ***Behaviour Management Policy and Procedure 2018 (No. 1) Notifiable Instrument NI2018-432***.

The SMDs the review team examined contain information about the young detainee's background, behaviour and how settled they are during their current period of detention, risk rating of harm to self, others and the safety and security of the centre, and analysis of overall risk. It was unclear from the document what evidence is used for the risk assessment that is embedded in the SMD template.

Based on the risk assessment, the SMD contains directions about placement, property the young detainees may have, clothing, level of supervision, participation in programs and recreational activities, and adjustments to visitation arrangements and court attendance. The SMD also outlines behavioural triggers, signs of escalation and engagement advice.

The SMDs are developed by the Unit Managers, with review and approval by the Operations Manager and Executive Branch Manager. Input from someone with a clinical background would be good practice, particularly where SMDs contain content relating to mental health or disability. In addition, the development of an SMD to manage self-harm or suicide risks must have significant input and oversight from FMHS.

The link between SMDs and the behaviour management system is not clearly articulated in policy, procedure, and practice. The review team found this a source of some confusion and think that it may also be the case for young detainees. One young detainee who was on an SMD told the review team, "I've been on it for ages. I don't know how to get off it."

Finding 13:

That Special Management Directions lack clinical input and oversight.

Finding 14:

That the link between Special Management Directions and the behaviour management framework is not clear.

Development of BMPs and SMDs

The review team reflected on which role or position at Bimberi is best placed to develop BMPs and SMDs. Currently they are developed by Unit Managers. Youth detention officers, Team Leaders, Unit Managers and Murrumbidgee School teachers are the staff who spend the most time with young detainees. Therefore, their input into any form of behavioural management plan or strategy is essential. However, in general they are also not behavioural, trauma or disability experts. To be able to develop these behavioural management plans properly, Unit Managers need sufficient input and support from someone with this expertise. We note that for the Client Services Team to do this, they would require additional resources (see also Recommendation 19).

Finding 15:

That the process for preparing Behaviour Management Plans and Special Management Directions does not fully draw on available information and relevant expertise.

Recommendation 5:

That Bimberi Youth Justice Centre conduct a review of Behaviour Management Plans and Special Management Directions to ensure the process for preparing them takes account of all relevant information and expertise, and the documents are appropriate for the target audience.

Engagement tips

The Principal Practitioner has recently begun developing documents for Bimberi staff that provide tips for engaging with and managing the behaviour of specific young detainees. These documents are tailored to each young detainee, covering relevant background information, noting relevant mental health or disability issues and provide instructions and tips on how to engage and support the young detainee. These are an excellent initiative and could inform (or form part of) BMPs and SMDs. Further, the Allied Health screening pilot (discussed at section 3.2.4) have produced reports with clinically meaningful information and recommendations for reasonable adjustments that should also be incorporated into BMPs and SMDs.

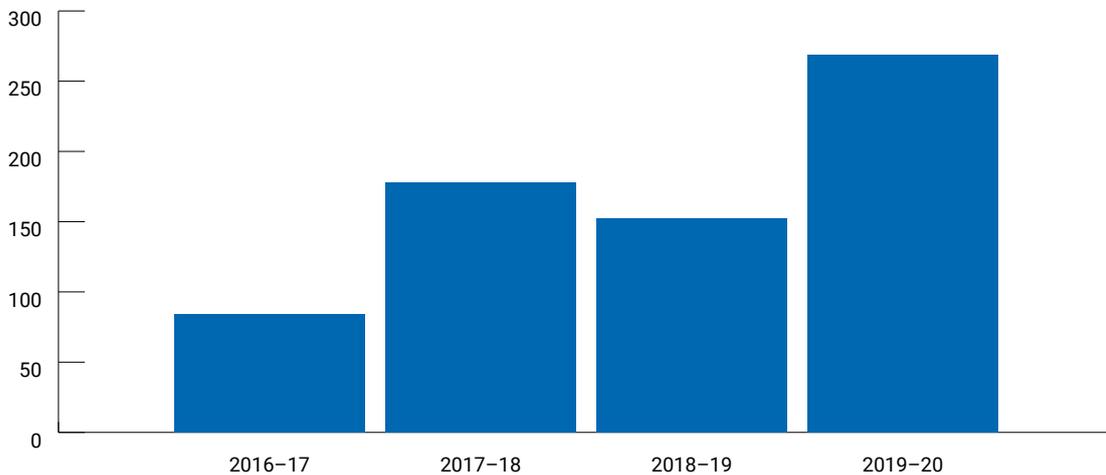
2.3.4 Use of force and restraints

Use of force, including any form of restraint, must only be as a last resort and for the shortest time required. It must also be safely and humanely applied, properly prescribed, and monitored and reported.

Young detainees we interviewed described use of force as when youth detention officers “forcefully take you to your room”, “getting dragged to my room” or when youth detention officers “take you down”. Most young detainees did not have any issues with use of force and thought that youth detention officers had appropriate reasons for it. Two young detainees told us that they had been injured in uses of force. One young detainee had complained to “human rights” and the other did not want to make a complaint.

In 2019–20, there was a significant increase in the use of force in Bimberi (Figure 1). The ACT HRC noted that this coincided with a significant increase in the use of rolling lockdowns at Bimberi.⁹ The most common reason for use of force were altercations between young detainees.¹⁰

Figure 1: Use of force incidents at Bimberi 2016/17 to 2019/20



* 29 of the 152 Use of Force were a mechanical restraint used during escorted leave.

** 91 of the 269 were mechanical restraints used during compliant Use of Force (i.e. escorted leave)

Source: Bimberi Headline Indicator Report, December 2020

Ninety-one per cent (n=33) of youth detention officers who responded to the staff survey said that they felt adequately trained in use of force. The same number said that they felt adequately trained in the use of restraints. Seventy-nine per cent (n=33) said that they felt adequately trained in de-escalation.

The review team did not examine any incidents or trends with use of force in any depth. We note that the PACYPC inspects the use of force register at least once every three months and can make further inquiries about any incidents they have concerns about. In addition, in their 2019 *Commission Initiated Review of Allegations regarding Bimberi Youth Justice Centre*, the HRC noted a number of systemic concerns relating to use of force. The HRC made recommendations to upgrade the security camera systems, to employ staff with professional expertise in positive behaviour support, to remove ‘compliance with a reasonable direction’ and ‘to stop a behaviour breach’ as grounds for use of force, and to ensure staff are being given clear, consistent and practical guidance on the safest techniques for restraint.¹¹ The review team can confirm that the first of these two recommendations have been implemented or are in progress. The CYP Act has not been amended to remove ‘compliance with a reasonable direction’ and ‘to stop a behaviour breach’ as grounds of use of force. The review team did not verify whether staff are being given clear, consistent and practical guidance on the safest techniques for restraint.

⁹ ACT Human Rights Commission (HRC), *Annual Report 2019–20* (11 December 2020), 70.

¹⁰ Ibid 68.

¹¹ ACT Human Rights Commission (HRC), *Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre: Report of the ACT Disability and Community Services Commissioner and ACT Human Rights Commissioner* (March 2019), 34–38.

2.3.5 Segregation and other forms of separation

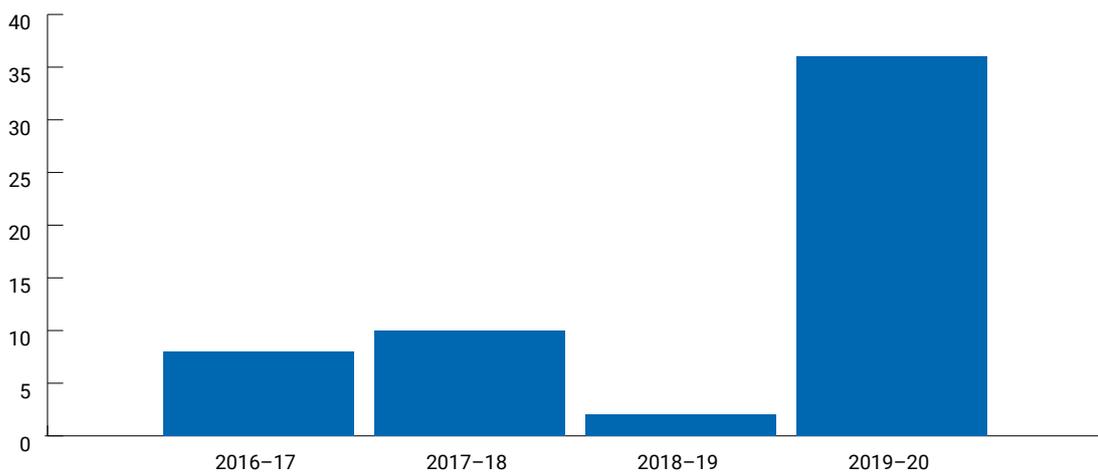
Segregation is defined in the CYP Act as:

- a) the restriction or denial of the young detainee's opportunity –
 - (i) to go into, or be in, a particular part of a detention place; or
 - (ii) to associate with other young detainees; and
- b) includes separate confinement.¹²

Segregation may be used for safety and security, protective custody, health or to prevent imminent risk of self-harm by placing the young detainee in a safe room. The use of segregation at Bimberi has a number of safeguards under the CYP Act, including mandatory review periods and that the PACYPC is notified of the segregation direction.

The number of segregation directions in 2019–20 was significantly higher than in previous years, notwithstanding that many of these were health segregation directions (see Figure 2). A large portion of the health segregation directions were in response to the COVID-19 pandemic and were for one to three days as young detainees awaited test results. The 11 safety and security segregation directions ranged from four days to 19 days,¹³ and were mostly in late 2019.

Figure 2: Segregation directions issued at Bimberi



* These are a count of directions made, not the number of individual young detainees segregated.

** 25 related to health segregations, 11 were for safety and security reasons.

Source: ACT Human Rights Commission, *Annual Report 2019–20*, 68

The review team is satisfied that there are adequate safeguards around the use of segregation in Bimberi. However, we have significant concerns about other forms of separation being used in Bimberi that do not have a legislative basis, namely time out and the accommodation of young detainees in units by themselves.

¹² *Children and Young People Act 2008 (ACT)*, s 204.

¹³ Data provided to OICS by the ACT Community Services Directorate.

Use of time out

Time out is used as a de-escalation tool at Bimberi. It is ‘a behaviour management strategy that has a purpose to restore socially appropriate pro-social behaviour by withdrawing a young person from a situation in which they are demonstrating inappropriate behaviour.’¹⁴ The *Behaviour Management Policy and Procedures* states that it ‘might occur anywhere in the detention place including in a young person’s room.’ In this section we are referring to time out that occurs in a locked room because the safeguards required for this are more stringent than other ways time out might occur, for example, sending a young detainee for a walk on the oval.

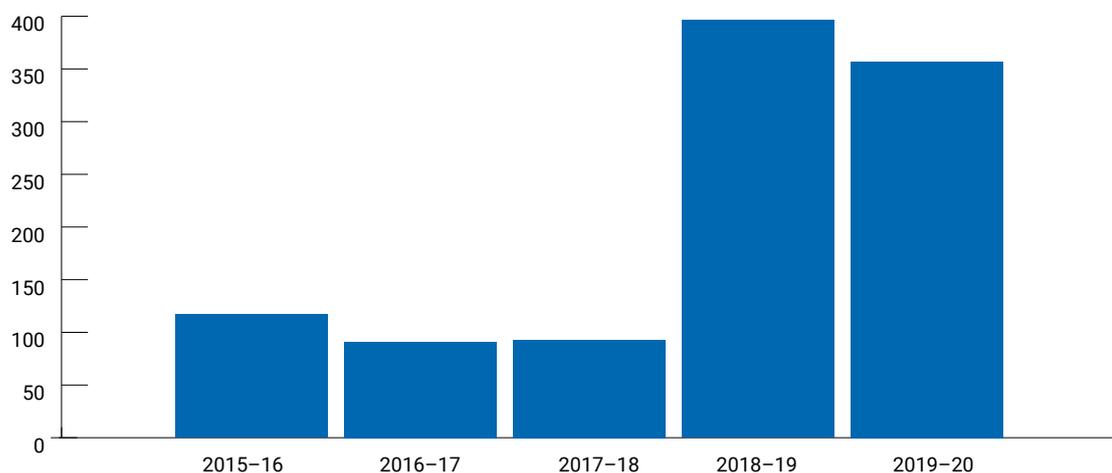
The young detainees we interviewed described time out as being sent to their cabin for ten minutes, but some said that the length of time can depend on the youth detention officer. Some young detainees told us that they see this as a punishment and that sometimes it just heightens them more. Other young detainees found it to be a helpful way to manage their own behaviour.

In 2011, the HRC raised concerns about the lack of legislative authority for time out.¹⁵ Time out is a potential form of segregation and it limits human rights protected by the HR Act, such as the right to liberty, freedom of association, and the rights of children. The HRC recommended that:

The ACT Government amend the *Children and Young People Act 2008* to authorise the use of “time out” in a controlled way, where de-escalation techniques and voluntary time out are used first where possible, and the period of time out is strictly limited.¹⁶

The HRC’s 2019 report on Bimberi identified a significant downward trend in the use of time out from 2015 to 2017 and noted that there was appropriate regulation, record keeping and oversight of the use of time out.¹⁷ However, in their inspection of the registers, the HRC has recently noticed a significant increase in the use of time out (Figure 3).

Figure 3: Use of time out at Bimberi



Source: ACT Human Rights Commission, *Annual Report 2019–20*, 69.

14 *Children and Young People (Behaviour Management) Policy and Procedures 2018 (No 1)*, 10.

15 ACT Human Rights Commission (HRC), *The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission* (July 2011), 326–8.

16 *Ibid* 327.

17 HRC (n 11) 60.

In Victoria, if the door is locked during a time out it would be considered isolation. The relevant legislation defines isolation as ‘the placing of the person in a locked room separate from others and from the normal routine of the centre.’¹⁸ The law provides safeguards around its use, including that it can only be used if other reasonable steps have been taken to prevent harm or property damage, that the person must be closely supervised and that details of the isolation must be recorded in a register.¹⁹

There is a time out register kept at Bimberi and the PACYPC reviews it regularly. However, the review team is of the opinion that the use of time out where it occurs in a locked room should have a legislative basis to ensure it is not unlawful segregation.

Finding 16:

That there is a lack of legislative authority for the use of time out in Bimberi Youth Justice Centre.

Recommendation 6:

That the ACT Government amend the *Children and Young People Act 2008* to provide a legislative basis and appropriate safeguards for the use of time out when it occurs in a locked room.

The review team also notes that for some detainees being locked in a room by themselves can be very difficult. This may be especially so for those with significant trauma histories and mental health problems. In addition, young detainees told us that they are often bored in their cabins (this is discussed in more detail in section 4.3). As part of a trauma-informed and therapeutic approach, we suggest that Bimberi consider whether there are personal items that a young detainee could take into their cabin to help calm them, such as stress balls, or whether a sensory space could be included in the centre where young detainees could go to de-escalate and relax. This has been considered in Victoria.²⁰

Recommendation 7:

That Bimberi Youth Justice Centre include in Behaviour Management Plans individualised strategies for ensuring that time out has a therapeutic focus.

18 *Children, Youth and Families Act 2005* (Vic), s 488(1).

19 Ibid.

20 Commission for Children and Young People, *The same four walls: inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system* (March 2017), 61.

Separation through limited interactions with other young detainees

Another concern is the accommodation of young detainees in units by themselves. While at Bimberi, the review team heard that some young detainees at Bimberi are “managed separately” due to their level of risk and association issues with other young detainees. In some cases, young detainees are being housed in an accommodation unit by themselves, with limited time out of the unit and very little mixing with other young detainees. Arguably, this is unlawful segregation because this treatment fits within the definition of segregation provided in section 204 of the CYP Act and a direction has not been issued in accordance with that Act. We refer to this practice in this report as separation.

In May 2019, the ACT Human Rights Commissioner intervened in a legal action brought by a young woman who had been detained at Bimberi.²¹ One of her claims was that CSD had unlawfully segregated her when she was removed from her room and placed in the Coree Unit for two months by herself.²² There was no segregation direction in place for this separation. The matter concluded with an undisclosed settlement and apology²³ and so there is no judgment as to whether this was unlawful segregation. The apology stated that CSD would review its policies and procedures to clarify the distinction between separation and segregation.²⁴ The *Children and Young People (Segregation) Policy and Procedures 2018 (No 1)* and the *Children and Young People (Admission and Classification) Policy and Procedures 2018 (No 1)* have not been updated since 2018.

We are very concerned that despite the legal action in May 2019, young detainees continue to be placed in separation. While the review team was at Bimberi, there was a young detainee who had been housed in a unit by himself for (at that stage) 12 weeks with very little time out of the unit each day and minimal mixing with other young detainees. We note that sometimes the population at Bimberi is very low and accommodating a young detainee in a unit by themselves may be unavoidable. However, if that is the case measures must be put in place to limit the impact on the young detainee (for example, through appropriate mixing with others at every available opportunity).

In addition, separation must be for a finite period of time before a mandatory review. For example, in Victoria separation plans allow a young detainee to be separated from their peers for 72 hours at a time. Documentation must include recording reasons for any decision to house the young detainee by themselves, communicating that reason to the young detainee and the right of the young detainee to apply for a review of that decision. The situation should be reflected in an appropriate plan (such as a SMD) that is developed with input from health or therapeutic staff, to address the young detainee’s behaviour, the causes of that behaviour and provide a clearly anticipated plan identifying when, and how the young detainee will be able to return to the broader population of the centre. We note that in the case of the young detainee that was being housed by himself at the time of the review, he had both a SMD and BMP in place. However, there is no policy or procedure in place that mandates this.

21 ACT Human Rights Commission (HRC), *Submission to OIGS Review of Bimberi Youth Justice Centre* (30 September 2020), 7.

22 Michael Inman, ‘Bimberi detention centre ‘breached human rights’ by unlawfully separating teen for two months, case alleges’, ABC News (online, 22 May 2019) <https://www.abc.net.au/news/2019-05-22/bimberi-allegedly-breached-human-rights-by-separating-teen/11136042>.

23 Michael Inman, ‘Bimberi Youth Justice Centre apologises to Indigenous detainee over alleged human rights breaches’, ABC News (online, 18 October 2019) <https://www.abc.net.au/news/2019-10-18/bimberi-youth-detention-centre-apologises-to-indigenous-detainee/11613754>.

24 HRC (n 21) 7.

Section 166 of the CYP Act contemplates that in Bimberi young detainees may need to be separated or isolated.²⁵ It states that a policy or operating procedure may be made in relation to the placement and separation of young detainees. That policy must be consistent with section 166 which states that the needs and special requirements of young detainees must be considered, and isolation must be in the best interests of the young detainee. There is currently no policy that covers the use of separation and/or isolation.

Finding 17:

That young detainees at Bimberi Youth Justice Centre have been placed in conditions that could amount to unlawful segregation.

Finding 18:

That there are insufficient safeguards in place when a young detainee is placed in an accommodation unit by themselves and are unable to interact with other young detainees.

Recommendation 8:

That the Community Services Directorate notify a policy under section 166 of the *Children and Young People Act 2008* that clarifies when a young detainee can be placed under separation by being accommodated in a unit by themselves and provides appropriate safeguards for its use.

2.4 Security

On 26 August 2019, a major incident occurred at Bimberi which was described by the media as a riot.²⁶ CSD commissioned an external review of the incident by Mr Peter Muir. OICS was provided with a full copy of Mr Muir's report (the Muir report) which made findings and recommendations concerning security and some other factors that were considered to have contributed to the incident.²⁷ At the time of this Healthy Centre Review, CSD was working through implementing the recommendations of this report and so OICS decided it would be unproductive for us to examine security in any depth. Therefore, we make only the following brief comments.

2.4.1 Intelligence

The Muir report recommended that CSD enhance the intelligence and classification functions at Bimberi. In Mr Muir's view, the lack of an intelligence function did not contribute to the incident but was recommended to provide increased capability to assess and manage emerging risks.

²⁵ The CYP Act does not define 'separation' or 'isolation'.

²⁶ For example: ABC Radio Canberra, 'Youth justice staff taken to hospital after 'riot' at Canberra's Bimberi detention centre', ABC News (online, 27 August 2019), <https://www.abc.net.au/news/2019-08-27/youth-justice-staff-taken-to-hospital-after-riot-at-bimberi/11451886>.

²⁷ Peter Muir, *Independent Review of the Incident at Bimberi Youth Justice Centre on 26 August 2019* (November 2019, unpublished and confidential).

In response, CSD created a new position called the Intelligence and Classification Officer in early 2020. The duties of this role relating to classification is discussed in section 2.2.3. The new position did not require formal experience or training as an intelligence officer. No staff intelligence reporting processes had been established at the point of the review, and the recruit course training program does not have a session on the intelligence function.

Finding 19:

That it is too early to determine the effectiveness of the intelligence function at Bimberi.

Finding 20:

That the intelligence function will require significant support and work to make it effective at preventing incidents.

2.4.2 Searching

Searches of young detainees

The types of personal searches that can be conducted on a young detainee in Bimberi are:

- Scanning search – a search conducted using electronic means that does not require the young detainee to be touched by anyone else.
- Ordinary search – a search of a young detainee or of anything in the young detainee’s possession which may include taking off outer garments of clothing, such as a jacket.
- Frisk search – a search conducted by quickly running the hands over the young detainee’s outer clothing.
- Strip search – a search that requires the young detainee to remove all of their clothing and their body to be viewed but not touched.
- Body search – a search of the young detainee’s body that can include an examination of an orifice or cavity. This can only be conducted by a non-treating doctor.

The search that is conducted must be the least intrusive that is necessary and reasonable in the circumstances.²⁸ Searches must be conducted by a person of the same gender as the young detainee and a transgender or intersex young detainee may select the gender of the person who will be searching them. The female young detainees we spoke to told us that they are always searched by a female youth detention officer, and if there are none available then in their experience, they are not searched.

²⁸ *Children and Young People Act 2008 (ACT)*, s 248.

Scanning, ordinary and frisk searches can be conducted routinely where it is 'prudent to ensure security or good order' or on a reasonable suspicion that the young detainee is in possession of a prohibited item.²⁹ Young detainees told us that they are frisk searched at night before they are secured in their cabins and some also said this happens every other time they are going to be secured in their cabin. Some young detainees said that they thought this was "pointless" because it would be easy to get things past the search, for example, "you put them in your dacks". Some young detainees also mentioned that searches are done using a Garrett (metal detector) wand after woodwork and court attendance.

Strip searches

The review standard that strip searching of young detainees is only carried out on reasonable grounds, in the least restrictive manner and is respectful of young detainees' dignity was found to be partially met.

It is positive that strip searching is no longer done routinely at Bimberi. Previously strip searches were conducted when young detainees are admitted to the centre, but they now only occur when there is a reasonable suspicion that the young detainee has something prohibited concealed. Most young detainees we spoke to had not been strip searched. The few who had been strip searched said that it was quite a while ago and they had no concerns about how it was conducted. One young detainee said that even though it is an uncomfortable process, it was done "pretty professionally". The standard procedure for conducting strip-searches requires them to be done half of the body at a time so the young detainee is never completely naked.

However, the room in which young detainees are strip searched has a CCTV camera and OICS is concerned that this is an unreasonable limitation on the right to privacy and humane treatment when deprived of liberty.³⁰ Strip searches are conducted in the change room in the Coree Unit, which is also used for young detainees to shower and change when they arrive at Bimberi. This room has a CCTV camera that is turned on and watched from the Master Control Room when a young detainee is being strip searched. Bimberi informed us that this is to protect the staff member conducting the search from unfounded allegations and that the dividing wall for the shower blocks the CCTV camera's view of the young detainee.

The review team found that the wall does not adequately protect the privacy of the young detainee. It is entirely possible that the unclothed bodies of young detainees, especially their top half, could be viewed on this camera.

Photo 5: CCTV camera in the Coree change room (view from shower recess)



Source: OICS 2020

29 Ibid s 252.

30 *Human Rights Act 2004 (ACT)*, ss 12 and 19.

It is also inappropriate to have a CCTV camera in a room regularly used for young detainees to shower and change their clothes. It is our understanding that this camera could be turned on by the person in the Master Control Room at any time. The CCTV footage once recorded is stored for 30 to 45 days³¹ and thus once the footage is captured, there is further risk that it could be viewed by other staff members.³²

Photo 6: CCTV camera view of the Coree change room showing person in shower recess



Source: OICS 2020

Finding 21:

That the location of the CCTV camera in the Coree change room is a breach of young detainees' rights to privacy and humane treatment when deprived of liberty.

The review team informed Bimberi of our concern about this camera, and they subsequently advised us that they intend to build a new search space so that the Coree change room will only be used as a bathroom. The new search space will have a camera in the corridor that is directed at the staff member conducting the search. This is a good solution, provided the current camera in the change room is removed and that the positioning of the camera in the new search room makes it impossible to see the young detainee being searched.

Recommendation 9:

That Bimberi Youth Justice Centre urgently remove the CCTV camera in the shower and change room in the Coree Unit.

³¹ If the footage is downloaded (such as incident footage) it is stored for longer, in accordance with the *Territory Records Act 2002*.

³² We were advised that only the Unit Managers, Operations Manager, Intelligence and Classifications Officer, Deputy Centre Manager and Executive Branch Manager have the ability to access and download footage.

Searches of young detainees' property

The review standards require that searches of young detainees' rooms are carried out in a professional and accountable way. Young detainees we spoke to had mixed experiences with their cabins being searched. They told us that these searches are done after incidents or when Bimberi suspects that a young detainee has a prohibited item. The Operations Manager confirmed that room searches are done on suspicion and there is no search matrix that would provide a systematic yet randomised system for routine searches to be conducted. There are usually one or two conducted in the centre each week.

Some young detainees told us that the searches are done respectfully and "99% of the time" the staff put everything back and make the bed. Young detainees who had had negative experiences described the searches as the youth detention officers pulling the room apart and they said that some of their belongings, such as art and photos, get broken because they "chuck it everywhere". The review team did not observe a search or investigate this issue in more detail.

2.5 Leadership and management of safety, resources and systems

2.5.1 Record keeping

The review standards require that Bimberi keeps up-to-date, well-organised, secure and permanent records of key information. Record keeping is an essential precondition for effective oversight of practices occurring in Bimberi, including restrictive practices such as use of force and segregation.

The PACYPC is required to inspect the register of searches and use of force at least once every three months.³³ In practice, they do this monthly and also inspect the registers of lockdowns, timeouts and incidents. In late 2019, the PACYPC expressed concern that their ability to oversight Bimberi was being hindered by the fact registers were not available to review when requested and there was inconsistent referencing on documents. Since then, significant work was undertaken to bring registers up to date.³⁴

At the time of the review, Bimberi was preparing to transfer to a new electronic record-keeping system called CYRIS. It will be the record-keeping system for both child protection and youth justice, meaning CYPS case managers will only have to use one system for the young people they are responsible for. As Bimberi was transitioning to this new system, the review team decided not to look at this area in any depth in this review, but to wait until the new system has been implemented. Members of the review team were given a demonstration of CYRIS and found the program to be comprehensive and properly adapted to the operational realities of Bimberi.

Different levels of access to information in CYRIS are available so information is only available to staff on a need-to-know basis. It will be important to ensure that this is effective in practice as staff begin to use the new system to balance the privacy of young detainees with what information staff need to care and manage young detainees.

33 *Children and Young People Act 2008*, s 195(6).

34 HRC (n 9) 68.

2.5.2 Cooperation and information sharing between Directorates

The effective operation of Bimberi requires good cross-Directorate working relationships between CSD, Canberra Health Services and the Education Directorate (see Text box 1). The review team observed and heard examples of some effective working relationships between Directorates. However, the review team were told on many occasions and from staff across Directorates that there is room for improvement in inter-Directorate relationships and information sharing practices.

In relation to information sharing, the review standards require that information relating to individual young detainees be treated with strict regard for confidentiality. This must be balanced with the need for staff to know certain information to properly care for and manage a young detainee. It is important that staff working at Bimberi fully understand what sort of information other Directorates working in Bimberi need to inform decision making about what information to share, with whom, and when. A firm understanding of each other's roles will help promote a common understanding of information sharing obligations at Bimberi.

TEXT BOX 1:

Examples of why inter-Directorate cooperation and appropriate information sharing at Bimberi is important

- **To ensure consistency in behaviour management**

Young detainees require consistent responses to clearly identified and defined behavioural problems to modify their behaviour. It is important that Behaviour Management Plans (developed by Unit Managers) and Positive Behaviour Support Plans (developed by Murrumbidgee teachers) are broadly consistent in the standards they set for the behaviour of the young detainee. Both plans should consider a young detainee's rehabilitation needs, and relevant reasonable adjustments relating to disability or mental health in order to prepare the most appropriate and consistent expectations of behaviour and behaviour management strategies.

- **To ensure education can meet young detainees' needs**

Educators need to know what reasonable adjustments need to be made for disability, or factors that could significantly impact the young detainee's risk level, behaviour, or ability to learn in the classroom. It may be appropriate to know about key events that may significantly impact a young detainee at school, particularly in relation to their social and emotional learning, such as a forthcoming court date.

- **To reduce risks to a young detainees' health and wellbeing**

Whilst health practitioners are bound by patient confidentiality, there may be a need to disclose some health information to Bimberi or Murrumbidgee School to keep young detainees safe, for example, possible side effects to look out for from certain medications.

- **To ensure young detainees are receiving appropriate therapeutic services**

All three Directorates operating at Bimberi must have effective working relations to ensure services meet young detainees' needs and that few gaps or overlap exists. Bimberi's Client Services Team, Murrumbidgee School and JHS, particularly FMHS are particularly important.

Positive practices

The review team noted a number of positive practices of inter-Directorate cooperation. These include:

- The regular morning briefing at shift change, attended by Bimberi operational and management staff, JHS staff, and Murrumbidgee School staff. These meetings allow quick and timely operational updates including matters affecting the health and wellbeing of young detainees.
- Efforts to align behavioural management tools used at Murrumbidgee School and Bimberi. For example, young detainees can now earn incentive points while they are at education.
- The new initiative of the Principal Practitioner preparing tailored overviews for Bimberi staff that outline reasonable adjustments for certain young detainees.

The weekly Client Services Meeting is a formal structure that is positive in theory but has issues in practice (as discussed below).

Areas for improvement

We heard that relevant information about young detainees is often not shared between Directorates in an appropriate, timely way causing a great deal of frustration to different stakeholders. We identified a number of themes in the feedback:

Information sharing between Bimberi and Murrumbidgee School

Education staff feel that often they do not have the information about young detainees from Bimberi that they need to do their job effectively. For example, they may not be informed in a timely way that a young detainee has a disability and needs reasonable adjustments in place; that young people have court dates coming up that may be particularly stressful; or that a young detainee poses a high risk of occupational violence to teachers.

Whilst the review team heard that there is a regular meeting between the Principal of Murrumbidgee School and the Executive Branch Manager of Bimberi, the review team heard views that there is not always effective information sharing. There is currently no formal system in place for bilateral information sharing between Bimberi and Murrumbidgee School for newly inducted young detainees. We were told one example of a six-week delay in Murrumbidgee School staff being informed about a young detainees' disability, including details of their NDIS package. Murrumbidgee School is involved in social and emotional wellbeing and learning, and teachers need some of this key information to get the best possible learning outcomes for the young detainee. One Murrumbidgee School staff member described the current relationship with Bimberi staff as "us and them" and that "Bimberi happens to us, not with us".

However, Bimberi staff informed us that they provide Murrumbidgee School with the Daily Residents List which includes all scheduled court dates. Furthermore, Bimberi staff stated that Murrumbidgee School staff receive the induction interview reports, attend morning briefings and attend Client Services Meetings. They also receive relevant information from BMPs and SMDs.

The review team is of the view that there should be deliberate inter-Directorate engagement between CSD and Education to develop a common understanding of information sharing and what structures best facilitate it, at both an operational level (about individual young detainees) as well as at management level. Joint training or work to more fully understand the roles of other Directorate staff in Bimberi may assist with this. Bimberi has recognised that Murrumbidgee School staff require more through induction training and a program for this has been developed that will be delivered twice a year. This is a good initiative to improve Directorates' understanding of each other's roles.

Recommendation 10:

That Bimberi Youth Justice Centre and Murrumbidgee School develop and implement a plan for enhancing cooperation and appropriate information sharing between Bimberi Youth Justice Centre staff and Murrumbidgee School.

Disparate understandings of what information can and should be shared

There is a lack of mutually agreed guidance between all Directorates on what sort of information can and cannot be shared. For example, we heard a staff member express frustration that FMHS would not disclose a young detainee's diagnosis in a situation where they felt that it was central information for them to effectively carry out their own role. There may be legal obligations on FMHS not to disclose diagnosis and the sharing of personal health information to a person of a non-clinical background is complex and can lead to increased stigma for a young detainee. However, there is clearly room for enhancing inter-Directorate communication about why certain information cannot be disclosed, and what other information can assist (for example, possible side effects from medication).

Ineffective Client Services Meeting

The weekly Client Services Meeting is the primary way information on specific issues, needs or plans for a young detainee is shared between Bimberi, CYPS, FMHS, JHS and Murrumbidgee School. The Practice Direction on information sharing states the purpose of this meeting is:

...to conduct a review of a young person's classification and update relevant Bimberi/ CYPS staff on a young person's current situation and progress ... a review of a young person's observations, placement and special management directions as well as discussion about any current medical and/or mental health concerns and educational needs and achievements. The meeting also provides CYPS staff with an opportunity to contribute to the review while also obtaining relevant information about a young person's progress and current circumstances. CYPS staff can obtain information from a variety of relevant stakeholders including discussion regarding the young person's behaviour, family contact, education, health and wellbeing. The meeting is an effective information sharing and decision making mechanism which can assist in guiding case management service response. There is also a focus on transition planning which enables CYPS staff and other relevant stakeholders the opportunity to work in collaboration in this context.³⁵

The agenda for the meeting involves discussing each young detainee that has arrived in Bimberi over the last week, as well as other young detainees monthly. Members of the review team observed this meeting on two occasions and spoke to different attendees about their evaluation of its efficacy.

Overall, the review team found that these meetings are not achieving their purpose. They lack structure and accountability. The review team repeatedly requested the completed minutes from the then Chair for meetings the review team attended but were not provided with any. One stakeholder suggested that this is because they are not completed. The review team also noted a lack of targeted and directed discussion about how participating staff (or their area more broadly) can support the young detainee, provide any required reasonable adjustments, and improve their service delivery for

³⁵ This Practice Direction is currently under review.

that young detainee. If the Client Services Meeting is to remain the key forum for collaboration, there is a need for basic accountability mechanisms to be put in place, including minutes, action items with responsible officers, follow up between meetings and case managers (even those standing in for colleagues) to be fully up to date on the young detainee's file. In our view, the Principal Practitioner would appear well placed to chair these meetings.

Finding 22:

That the weekly Client Services Meeting fails to meet its stated objective of being an effective information sharing and decision-making forum.

Recommendation 11:

That the Community Services Directorate review and evaluate the effectiveness of the Client Services Meetings in providing appropriate outcomes for the care and management of young people.

2.5.3 Staff

Staff profile

Bimberi is funded for 73.68 FTE,³⁶ 50 of which are operational staff (Unit Managers, Team Leaders and youth detention officers). Bimberi has an additional 17 casually employed staff, nine male and eight female. CSD advised that Bimberi currently has 21 full-time employed female staff, filling 29% of funded positions.

After the major incident in August 2019, understaffing at Bimberi led to an extended period of rolling lockdowns (see section 4.1.2 for further discussion). In response, Bimberi conducted an increased number of recruitment rounds, with new youth detention officers commencing in December 2019, March 2020, May 2020, December 2020 and early 2021.

Our staff survey was conducted in August 2020 and so the recent influx of new youth detention officers may explain why a large proportion of the respondents had only been working at Bimberi for up to one year. However, there is also a trend of youth detention officers staying at Bimberi for two to three years before leaving to undertake work in the community.³⁷

Responses in the staff survey indicate some staff perceive current staffing levels are below ideal (see Table A in **Appendix 2**). Some young detainees who were interviewed said that when there are not enough staff, it restricts what activities they can go to.

It was outside the scope of this review to examine this trend or consider in detail whether the current staffing levels are sufficient. However, the process for recruitment of youth detention officers is discussed further below.

³⁶ Seven FTE are for Narrabundah House Indigenous Supported Residential Facility.

³⁷ Bimberi Oversight Group, *Minutes of meeting held on 28 October 2019*.

Staff diversity

The review team found that the staffing profile at Bimberi values diversity. The respondents to the staff survey indicated good diversity in age and gender among staff (Tables C and D in **Appendix 2**). Thirty per cent of respondents (n=60) said that they identified as coming from a culturally or linguistically diverse background, but few specified what this background was in the free text option. One staff member (n=60) identified that they had a disability.

Bimberi has four Aboriginal or Torres Strait Islander staff (two male and two female). One of these is the Family Engagement Officer, which is an Aboriginal-identified position. This represents 5% of Bimberi FTE. This is positive in comparison with the wider ACT Public Service average of 1.8% of staff identifying as Aboriginal and Torres Strait Islander.³⁸ However, noting that Aboriginal or Torres Strait Islander young detainees on average represent 25% of young detainees at Bimberi (see section 3.2.3), a higher representation amongst staff is desirable.

While Bimberi does involve local Aboriginal and Torres Strait Islander service providers, stakeholders suggested that increasing the number of Aboriginal and Torres Strait Islander staff would assist Bimberi to deliver culturally appropriate programs and services to young detainees. Stakeholders suggested that Bimberi needs to change the way it attracts Aboriginal and Torres Strait Islander staff. To promote itself as an employer of choice for the local community, one interviewee stated that “Bimberi needs to rebrand itself” and actively explore opportunities to build a pool of skilled and qualified Aboriginal and Torres Strait Islander staff.

Stakeholders also provided feedback around the retention of the Aboriginal and Torres Strait Islander workforce in the centre. Working in Bimberi is a demanding job as it requires staff to balance their professional roles working with young detainees with their personal roles in the community. Aboriginal and Torres Strait Islander employees are part of the same community as their clients which often leads to increased expectations, including work outside of core business hours.

“Bimberi is still understaffed on the floor regarding youth workers, and this in the past has led to incidents and harm to staff and loss of control”

“The staffing isn’t adequate for the number and complexity of young people in the centre. The staffing model is out of date and we need more staffing to ensure the safety and care of staff and young people.”

“I feel that more staff are needed for safety and for SMD’s and BMP’s to be carried out effectively.”

“Maybe one more permanent or casual staff member on each shift would ensure us the time we need to complete paperwork and give us the opportunity to have a break from the young people and them from us at more points throughout the day.

“We need more youth workers. We need two staff posted to each wing.”

Comments made in staff survey

38 ACT Government, *Aboriginal and Torres Strait Islander Agreement 2019–2028: Annual Report (2019)*, 20.

Many Aboriginal and Torres Strait Islander employees may also experience trauma, grief and loss throughout their employment. This, coupled with the increased workplace expectations, can lead to stress and burnout. It is important that there is a culturally safe environment in Bimberi to ensure that staff have opportunities to appropriately manage stress and to maintain a healthy work/life balance. Throughout the review, stakeholders also mentioned that isolation was something that needs to be considered in a workplace with small numbers of Aboriginal and Torres Strait Islander staff. These challenges could be addressed through the Cultural Competency Framework recommended in section 3.2.3.

Finding 23:

That Aboriginal and Torres Strait Islander staff at Bimberi Youth Justice Centre need additional support to provide a more culturally safe workplace.

Youth detention officer recruitment

Bimberi calls their operational staff 'youth workers', despite the CYP Act using the term 'youth detention officers'. We appreciate that CSD is using this language as part of a strengths-based approach. However, the term 'youth worker' misrepresents key aspects of their role because the common understanding of the role of a youth worker does not include providing security and responding to incidents. A member of the senior management team told the review team that some new staff come into Bimberi thinking that there is separate security staff that step in when needed.

'job is falsely advertised as a youth worker when you are detention officer'

Comment made in staff survey

Further, while staff are offered the opportunity to complete a Certificate IV in youth work, not all Bimberi staff have qualifications or work experience in youth work. We note that although youth work is not currently an accredited profession, there are moves to make it such.³⁹

Finding 24:

That 'youth worker' misrepresents the role of youth detention officers at Bimberi Youth Justice Centre.

The Position Description for a Bimberi youth worker does not mention the strong possibility that a youth worker will be exposed to verbal and physical aggression by young detainees, may have to use force on a young detainee, including the application of restraints, and may be the first responders to serious incidents. The only hint of this in the Position Description is at the end of the long list of 'requirements':

Potential to encounter agitated customers

Frequently

³⁹ Comments made to OICS by the Youth Coalition of the ACT. See, for example, Michael Emslie (2012) 'It's time: A case for the professionalisation of youth work' (2012) 31(1) *Youth Studies Australia* 16.

Finding 25:

That the Position Description for youth worker at Bimberi Youth Justice Centre does not reflect some key responsibilities of the position, including the potential to have to use force on young detainees.

Training

A dedicated training officer was appointed at Bimberi in March 2020 and is responsible for the design, development and delivery of training and development programs for staff at Bimberi. It is good practice to have this role on-site. Induction training is a seven-week program that is then followed by two weeks of 'buddy shifts' prior to staff commencing in their role.

Post-recruit training is delivered according to a regular training schedule and there are also sessions delivered in response to the needs of staff as they arise. Skills maintenance sessions are delivered bi-weekly and the calendar for these includes scheduled 'skills gap' sessions which are for responsive training based on identified operational needs.

Staff also complete e-learning using a platform that tracks their learning. As all youth detention officers are scheduled for night shift, they are expected to complete their e-learning then if appropriate. Staff are also offered the opportunity to complete a Certificate IV in Youth Work through the Canberra Institute of Technology.

It was outside the scope of this review to comprehensively examine the content of staff training, although a review team member did attend a number of new recruit training sessions. However, information provided by Bimberi staff indicates that they are generally satisfied with the training they receive (see Tables E and F in **Appendix 2**).

Training on disability awareness is discussed in section 3.2.4, and training on cultural awareness is discussed in section 3.2.3.

Finding 26:

That, overall, the training program at Bimberi Youth Justice Centre meets the needs of staff but there are some areas that may require further attention, for example, emergency response to loss of control and staff self-care.

Staff support

Youth detention centres can be stressful places to work as they are dynamic and sometimes unpredictable environments. Therefore, it is essential that staff receive appropriate supports to help them manage the stressors they may experience in the workplace. The review team found that some staff at Bimberi would appreciate more employee assistance and support. However, other staff do feel supported.

Bimberi staff have access to the ACT Public Service Employee Assistance Program (EAP) where they can obtain confidential help regarding personal or work related issues. During debriefs held after incidents, staff are reminded to access the EAP if they need support. One staff member raised that the usefulness of the EAP is limited by a lack of understanding of the unique operational environment of Bimberi. That staff member thought that it would be beneficial to have welfare officers or peer support officers for staff to talk to because they will understand what it is like to work at Bimberi.

The CSD advised that they also use supervision to support staff. This should take place at least once per fortnight, but more regularly and formally for new staff. Supervision can be either formal supervision, informal supervision, group or team supervision and live supervision. It aims to provide staff with one-on-one support for both concerns and professional development. It is positive that CSD has a framework for supervision for all CYPS staff as this can be an important mechanism for support.

Finding 27:

That the Community Services Directorate has a framework in place for supporting staff, but some improvements may need to be made so staff at Bimberi Youth Justice Centre feel supported.

2.5.4 Policies and procedures

The review standard that current information about the operations of Bimberi is readily available to staff, young detainees, visitors and any other interested parties was found to be substantially met. Policies and procedures that have been developed under the *Children and Young People Act 2008* are accessible to the public through the online ACT Legislation Register as notifiable instruments. It is positive that all these policies and procedures were either created or reviewed in the past two years and so are relatively up to date.

However, the review team found that combining policy and procedures into the same document makes them difficult to distinguish. Generally, a policy describes what approach is being taken and why, whereas a procedure is how the policy is to be operationalised. The policies and procedures relevant to Bimberi are combined into one instrument, for example the *Children and Young People (Admission and Classification) Policy and Procedures 2018 (No 1)*. Although convenient as there is only one document to access, it results in quite long and complicated documents in which it is difficult to separate the policy from the procedure.

"There is no mental health or general welfare supports in place for staff to access (except for EAP, which the staff member must make the "first move" to access) Bimberi requires a better outreach system so staff feel better supported."

"[need] more selfcare programs for staff and checking in on staff mental health"

"[need] a more supportive environment from supervisors and peers"

"I feel supported by all the staff when making decisions within the centre. The support allows me to work effectively with the young people in the centre."

"Good team environment"

"Positive staff relationships"

"The youth working team is amazing and really helps with self care. The team works together and supports each other"

"I love the staff I work along side and the way we support each other"

Comments made in the staff survey

Procedures are used by operational staff at Bimberi every day and so they need to be clearly distinguished from policy, and easily accessible for staff and the public (for example, family members or community organisations that work with young people and want to know very practical information about how Bimberi operates). Bimberi also uses Practice Guidelines (discussed below) which contain more operational detail, but these are not notifiable instruments which restricts oversight of the procedures at Bimberi. It is the review team's opinion that the notifiable instruments should clearly distinguish between policy and procedures, such as through headings or by making them separate instruments.

Finding 28:

That it is difficult to distinguish between policies and procedures that apply to Bimberi Youth Justice Centre.

Practice guides and other written directions to staff

In addition to the policies and procedures, CYPS has an electronic Knowledge Portal where Bimberi staff can access over 800 documents relating to the functions of their role, including Practice Guidelines. The review team viewed some of these documents and found them to be a simple and clear way for staff to access information on key aspects of their role. However, these are not publicly available on either the ACT Legislation Register or the ACT Open Access portal.

The *Freedom of Information Act 2016* (FOI Act) places an obligation on ACT government agencies to proactively release open access information. One category of open access information is policy documents, which is defined broadly. It is the review team's opinion that Practice Guidelines are policy documents for the purpose of the FOI Act. It is important that these are published on the Open Access portal so that practices at Bimberi are transparent and appropriate oversight can occur.

This is even more important given the lack of operational detail in the policies and procedures published on the ACT Legislation Register. For example, the *Children and Young People (Safety and Security) Policy and Procedures 2018 (No 1)* contains no information on when a lockdown can occur at Bimberi, whereas the Practice Guide *Operational Lockdowns at Bimberi Youth Justice Centre* provides information on the types of operational lockdowns at Bimberi, when they can occur and how they are to be recorded.

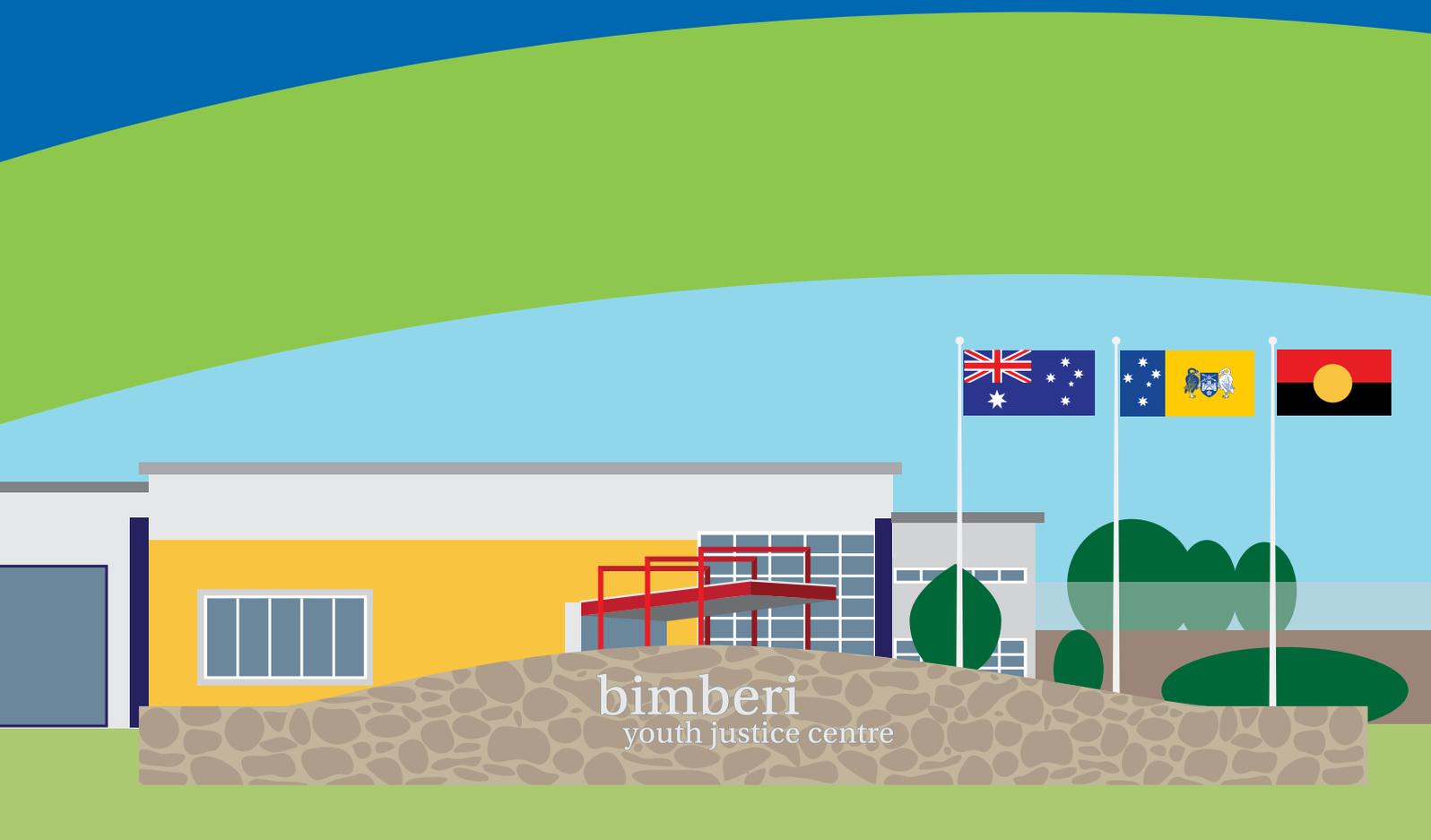
In addition, when the notifiable policies and procedures are reviewed, the relevant Practice Guidelines should be referred to. This will increase transparency by indicating where staff, young detainees, visitors and any other interested parties can find further information on practices at Bimberi.

Finding 29:

That transparency and public accountability in relation to Bimberi Youth Justice Centre would be greatly improved by publishing Practice Guidelines on the ACT Open Access portal.

CHAPTER 3

Respect and dignity



3. Respect and dignity

3.1 Daily life

3.1.1 Living conditions

Overall, the review team found that the living conditions of young detainees meets contemporary community standards of decency and humanity. The young detainees we interviewed thought that living conditions in Bimberi were of a reasonable standard, though they had some suggestions for improvement, such as more activities to undertake in their cabins.

Condition of cabins and units

Our observations of the cabins and units were that they had an expected level of wear and tear but had no notable damage. Young detainees in Bimberi are allocated a single cabin within a unit block. These cabins contain a bed, television, desk and bathroom facilities.

Photo 7: Kitchen area in an accommodation unit



Source: OICS 2020

Not all young detainees have a chair in their cabin and so some are unable to sit at their desk. One young detainee told us that he has to sit on the floor and use his bed as a desk to be able to write. Bimberi advised that the decision about access to chairs in cabins 'is based on an individual risk assessment conducted by the Unit Manager and takes into consideration the young detainee's classification, current behaviour, engagement with the Bimberi programme and risk at the time.'⁴⁰ The review team considers this inappropriate and a solution must be implemented to ensure all young detainees can have a chair, such as fixing chairs to the floor in cabins or using soft chairs that cannot be used as a weapon.

Finding 30:

That it is unacceptable that some young detainees do not have a chair in their cabin.

⁴⁰ Email from Bimberi senior management to OICS, 26 March 2021.

There is one cabin in each unit that has a CCTV camera. These cabins are used for young detainees who are deemed at-risk. In one of the units we observed, the at-risk cabin is an interconnecting room, with capacity for two young detainees to co-locate. Placement in these cabins requires approval from the Executive Branch Manager. Placement can also be for family and cultural reasons. Desk space is not available in these inter-connecting cabins.

Finding 31:

That the built environment in which young detainees are held meets expected standards for a youth detention centre.

Clothing, bedding and personal care items

On induction to Bimberi, young detainees are provided with a personal kit which consists of clothing, shoes, toiletries and bedding. All clothing and bedding are clean and appropriate to the climate. Separate induction kits are put together for males and females. Each young detainee is provided with pyjamas and three full sets of clothing, with a range of sizes available. Each young detainee is given a pair of shoes and thongs.

Where clothing or shoes get damaged, young detainees can request replacements. Clothing for young detainees is re-used if it is in good condition. Underwear and socks are discarded once young detainees are released from Bimberi. As part of the incentives system, young detainees can also purchase a range of additional clothing items.

Toiletries packs are made up by Bimberi staff and given to young detainees on induction. These packs have all the essentials, including a toothbrush, toothpaste, soap, shampoo, conditioner, deodorant and sanitary items. Young detainees can request additional toiletries when they run out. As part of the incentive system, young detainees can purchase different brands of toiletries.

Finding 32:

That young detainees are provided with clean clothing and bedding, and the necessary basic hygiene items.

Finding 33:

That young detainees can purchase a range of additional items, including clothing and toiletries, through the incentives system.

Cleanliness and maintenance

Young detainees are encouraged, enabled and expected to keep themselves, their cabins and communal areas clean. Each morning young detainees are expected to mop their cabin and they do their own laundry. They have additional cleaning chores in the evenings, linked to the incentives system. Overall, the units and cabins that the review team observed were reasonably clean.

Bimberi staff informed us that when a young detainee transfers to another cabin, they are required to clean the cabin for the next young detainee who will use it. Conversations with Bimberi staff also suggested that sometimes they assist the young detainees with this cleaning. However, in the interviews some young detainees raised that they have been moved into cabins that are not clean and they do not appreciate having to clean the mess left by the previous young detainee.

Regarding maintenance, Bimberi has three full-time Facilities Officers. The Facilities Team respond to maintenance requests generated by staff.

Personal property

The review team found that young detainees' personal property is being held securely in storage and recorded accurately. Property is collected from a young detainee at induction in the Coree Unit. Clothing is laundered before being stored and young detainees can keep clothes to wear to court in their property stores.

Each young detainees' property is kept in a separate tub, which is sealed with a unique seal number, and stored in a staff-only area. There is a whiteboard in this restricted area which records the name and type of property stored for the young detainee. This information is also recorded on the young detainee's electronic file.

Valuable items, including phones, wallets and money are sealed and stored in the 'Valuables Store'. Access to this room is restricted to Team Leaders and above. Where unauthorised access is attempted, the Master Control Room is notified.

Property belonging to former young detainees (that is, those released at court, rather than directly from Bimberi) remains in the storeroom. Bimberi staff make reasonable attempts through mail and CYPs case managers to return property to former young detainees.

Finding 34:

That there are good systems in place to securely store and record personal property.

3.1.2 Food and drink

The review team found that young detainees have a varied, healthy and balanced diet which meets their individual needs. The food for young detainees is prepared fresh onsite at Bimberi and delivered to the units. Some young detainees are allowed to eat lunch in the dining hall, based on their classification and behaviour. On Fridays there is a barbeque lunch and young detainees eat together in the dining hall. Staff and external visitors, such as the OVs and the PACYPC, also attend.

Photo 8: Dining hall at Bimberi



Source: OICS 2020

Young detainees are served three meals a day, two of which are hot, as well as morning and afternoon teas and whatever snacks they have purchased through the incentive scheme. The menu is based on a four-week rotation. The two chefs at Bimberi also cater to individual preferences where possible and have diets to suit religious needs. The review team were pleased to note that Bimberi had recently (2019) commissioned an independent menu assessment by a qualified dietitian from Nutrition Australia, and do this annually, which is good practice. The assessment was positive overall noting Bimberi provides a wide range of culturally diverse foods but also identified several areas for improvement such as ensuring appropriate serves of vegetables each day.

Finding 35:

That it is good practice that Bimberi Youth Justice Centre commission an independent review of their food and nutrition annually.

Young detainees we spoke to had mixed opinions about the food. Comments ranged from “putrid”, “alright sometimes” to “pretty good”. Review team members ate lunch with some young detainees and found the food to be of good quality and quantity. Some young detainees mentioned to us in the interviews that they wanted greater access to healthy food. Young detainees told us that if they do not like the meal they are served, they can make toast instead.

Most young detainees said that there is enough food. However, some young detainees raised that they would like to be able to take the food they have purchased through the incentives scheme into their cabins overnight. Dinner is served at 5:30pm and then any food young detainees have purchased can only be eaten from 6–7pm. They then have no food until morning unlock, which can sometimes be late.

Some young detainees also raised that they would like to be able to cook for themselves in their unit. Young detainees have cooking classes at Murrumbidgee School, but are not able to do this in their units. Self-catering used to be available in the Bendora Transition Unit, discussed in section 5.3.

Finding 36:

That young detainees do not have access to food when secured in their cabins overnight for 13.5 hours, or sometimes longer.

Finding 37:

That there are no self-catering options available for young detainees at Bimberi Youth Justice Centre.

3.1.3 Interactions between staff and young detainees

Interviews with young detainees



Overall, the review team found that young detainees are treated with respect and dignity most of the time. The interactions we observed between staff and young detainees were courteous and each young detainee was treated as an individual. Most youth detention officers showed genuine interest in young detainees and had clearly built rapport with them.

Two young detainees told us in interviews that to be respected by staff they have to show respect themselves. However, two other young detainees spoke about “double standards” in that young detainees are expected to behave in a certain way, but staff behaviour is held to a different standard, for example, use of offensive language.

Finding 38:

That interactions between staff and young detainees were usually respectful.

3.1.4 Consultation with young detainees

The review team found that Bimberi lacks effective formal mechanisms for consulting with young detainees about matters which affect them. In the interviews, seven young detainees said that they feel their voice is not heard in Bimberi. Their main concerns were that when their requests are refused they are not given a reason, and that it is the managers who make the decisions, but young detainees do not get to speak to them. One young detainee said that they do feel listened to and another young detainee said that there is a particular member of the senior management team who listens and follows up on their requests. Some young detainees also raised that sometimes the Sports and Recreation Officer consults them on what activities they would like to do.

“I’m locked up and I don’t have a say in anything.”

“I can tell people what I want to change but it probably won’t happen. It takes months.”

“It doesn’t matter what I think, they’ll do what they want.”

Comments made by young detainees in interviews

Bimberi noted that young detainees have the opportunity to participate in weekly unit meetings where one of the agenda items is “comments/suggestions”. The minutes from the unit meetings are shared with Bimberi management. However, given that young detainees told the review team that they do not feel heard, a formal mechanism for consultation needs to be implemented that allows young detainees to raise issues with staff before the issues become the source of complaints. Young detainees may raise concerns and suggestions with youth detention officers informally, but there is no feedback loop built into this process. There is also no mechanism where young detainees can make suggestions for improvements or comment on how policies and procedures affect them.

There are a number of models Bimberi could adopt, such as having it as an open forum for young detainees to raise issues with centre management or having some young detainees as delegates to represent the other young detainees, provided they are selected through a fair and transparent process. Brisbane Youth Detention Centre has a ‘Young Persons’ Liaison Committee’, and Cleveland Youth Detention Centre has a ‘Residents Consultative Committee’. These are chaired by a senior manager and attended by relevant staff. One young person from each accommodation section attends to raise issues and receive updates on behalf of their section. They meet fortnightly to monthly, depending on the issues raised and the time it takes to resolve them, and what updates there are to provide.

Having a regular forum, and keeping records of what was discussed, may help to alleviate some of the frustration experienced by young detainees who feel that their voice is not being heard. We appreciate that there are challenges with establishing such a forum when there are a small number of young detainees and they are often not at Bimberi for long periods. However, the model chosen can accommodate for these factors. Importantly, the consultation method must be co-created by young detainees and staff so that they have trust in the process.

Finding 39:

That there needs to be more effective formal mechanisms in place for consulting with young detainees about matters which affect them at Bimberi Youth Justice Centre.

Recommendation 12:

That Bimberi Youth Justice Centre develop a formal consultative mechanism with young detainees that enables their views and concerns to be heard and for feedback to be provided to them.

3.1.5 Complaint handling

Internal complaints

The review standards require Bimberi to have an effective and confidential complaints mechanism for young detainees and their families, carers and kin. This complaints mechanism needs to be user-friendly for people with low levels of literacy or disabilities that impact their ability to make a complaint. The review team found these standards to be mostly met. However, we have some concerns about independence and confidentiality in the internal complaint processes that leave young people open to unnecessary risks of repercussions for complaining.

To make a formal complaint, a young detainee must fill out a complaint form. The *Children and Young People (Complaints Management) Policy and Procedures 2018 (No 1)* states, 'If a complainant wants to fill in a complaint form, staff should assist them to do so.' That staff member then hands the complaint form to the Unit Manager on the same day.⁴¹ The Unit Manager is then the first investigator of the complaint. They are expected to meet with the complainant, meet with relevant staff, review relevant records, and form a view on the complaint. If the complainant is not satisfied with the response the Unit Manager gives them, they can refer their complaint to the Executive Branch Manager.

The review team is concerned about the lack of anonymity and confidentiality under the internal complaints process. Firstly, while a young detainee should always be able to ask for help making a complaint, staff should not assist them unless asked. There are young detainees who will not require help to fill out their complaint form and the current process removes their anonymity, may discourage them from complaining, and will not enhance their trust in the system.

⁴¹ If it would be inappropriate to hand the form to that Unit Manager, it is to be handed to another Unit Manager or staff member above them who would not have a conflict of interest in that complaint.

In addition, it is our view that no operational or client services staff at Bimberi should be involved in investigating complaints. It creates the perception of bias and a young detainee may fear reprisal from staff for making the complaint. If for some reason a complaint is lost, it also opens staff up to allegations that it was done so deliberately.

Elements of complaint systems from other jurisdictions could be adopted to provide anonymity when necessary and to instil trust in the complaints process. For example, one system is to have secure mailboxes in each unit marked 'confidential mail' with complaint forms and envelopes at or near the mailboxes in each unit. These envelopes could have both internal and external agencies (such as the OVs and HRC) that complaints can be made to printed on them and the young detainees selects which they would like it to go to. Only a non-operational and non-client services staff member would have a key and would clear the box daily. Complaints addressed to external agencies are not opened or read but are forwarded to the addressed complaint agency with a record of it having left Bimberi being made.⁴²

Finding 40:

That the internal complaint handling processes at Bimberi Youth Justice Centre lack independence, and there are inherent risks of reprisals against young detainees for making a complaint.

Complaints to external agencies

Most young detainees interviewed identified that they could make a complaint to the OVs or "human rights", that is, the HRC. They can call the OVs and PACYPC free of charge from their personal phone accounts and these calls are not recorded, or they can speak to them when they visit Bimberi. This information is provided to young detainees in the Bimberi Handbook and the induction video. The review team found that the OVs and PACYPC have a regular and active presence at Bimberi and are an effective mechanism for independent complaint handling. However, the review team observed that an escorting staff member was actively participating in discussions between OVs and young detainees. It is imperative that discussions between OVs and young detainees are out of earshot of all staff members.

Finding 41:

That there are appropriate avenues for young detainees to make complaints to external agencies.

42 Office of the Custodial Inspector Tasmania, *Custody Inspection Report: Inspection of Youth Custodial Services in Tasmania* (2018) 37.

3.2 Equity, diversity and faith

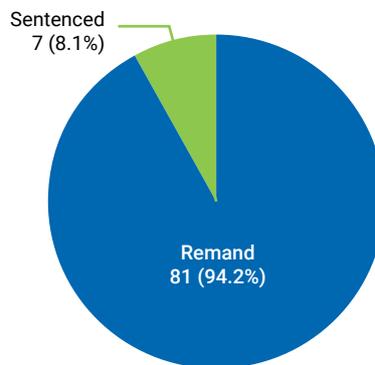
3.2.1 Young detainees on remand

The review standards require that the unconvicted or unsentenced status of remanded young detainees is respected in the way they are treated while at Bimberi. In addition, remanded young detainees must have no less access to services, activities and amenities than sentenced young detainees, and be able to access additional services required in line with their remand status.

The HR Act requires that an accused child is ‘treated in a way that is appropriate for a person of the child’s age who has not been convicted.’⁴³ Similarly, the CYP Act states that the treatment of a young remandee who has not been convicted or found guilty must recognise and respect that they are presumed innocent of any offence for which they are detained.⁴⁴ What this treatment involves is set out in the *Children and Young People (Treatment of Convicted and Non-Convicted Young People) Policy and Procedures 2018 (No 1)*.

The *Treatment of Convicted and Non-Convicted Young People Policy and Procedures* requires that non-convicted young detainees be separated from convicted young detainees. However, this requirement does not have to be complied with if it is in the best interests of all affected young detainees. As shown in Figure 4, almost all young detainees at Bimberi are on remand. Therefore, it is often undesirable to separate convicted and non-convicted young detainees because it would result in the convicted young detainees being physically isolated from other young detainees.

Figure 4: Young people in detention during the year in the ACT, by legal status – 2018/19



* Number of remand and sentenced young detainees may not sum to total number of young detainees as some young detainees may have changed legal status during the year.

Data source: Australian Institute of Health and Welfare (2020) *Youth Justice in Australia*, Table S109b.

Of the 12 young detainees we interviewed, 11 were on remand. Those on remand had been in Bimberi for a period ranging from five days to 18 months, with a median of four months. They told us that being on remand does not impact what they can access – it is dependent on their security classification rather than their legal status. However, some young detainees raised that being on remand affects their security classification and one young detainee said that he thinks this a breach of his right to be treated as innocent until proven guilty. This is discussed further in section 2.2.3.

43 *Human Rights Act 2004 (ACT)*, s 20(2).

44 *Children and Young People Act 2008 (ACT)*, s 139.

Access to leave

Some young detainees raised that when you are on remand you cannot access leave (other than in exceptional circumstances) even if you are on a low security classification. It is not clear from the policies and procedures whether being sentenced is part of the eligibility criteria.

The *Children and Young People (Local and Interstate Leave) Policy and Procedures 2018 (No 1)* states that the young detainee's legal status is a matter that the Manager may consider when making a decision to issue a leave permit. It does not preclude young detainees on remand from making an application for, or being granted, a leave permit.

However, the Practice Guideline 'Assessing and granting leave' states 'For Young People to be eligible for leave, they should have served half of their sentence and be classified as S2 or S1, unless otherwise approved by the Director.' The Bimberi Handbook also includes these as examples of requirements for leave approval. This creates the perception among young detainees, and possibly also staff, that only sentenced young detainees are eligible for leave.

Leave is an important way that young detainees can be supported to maintain family and community ties and access education, employment, housing and other social integration needs to prepare for release. While the average length of time young people spent in detention on remand during 2018–19 was 24 days,⁴⁵ for some young detainees it is significantly longer. In addition, even if they are convicted, some young detainees are released at sentencing because they are either not sentenced to imprisonment or have already been in Bimberi for the length of their sentence. Leave is then very important to assist with their transition back to the community before their release. Therefore, it is important that the eligibility criteria are clarified so that young detainees on remand know that they can apply for leave.

Finding 42:

That the Practice Guideline 'Assessing and granting leave' and the Bimberi Handbook need to clarify that young detainees on remand can access leave.

3.2.2 Young women

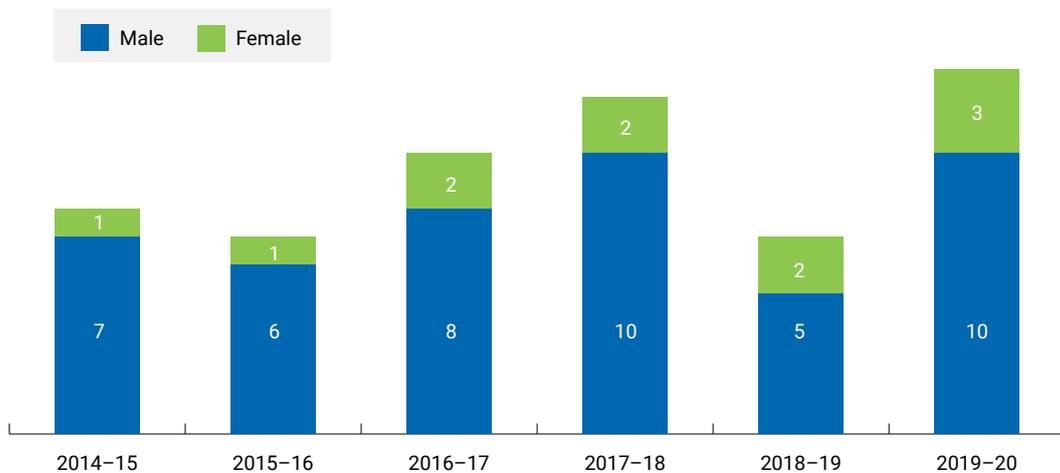
The review standard that the distinct needs of young women and girls in Bimberi are recognised and that they have equitable access to services, activities and amenities appeared to be substantially met. However, the review team was only able to interview two young women because of the low numbers of young women in the centre during the review period. Therefore, these findings are based on limited evidence and further evidence gathering would require us to conduct an in-depth thematic review.

In 2019–20, 26% of young detainees in Bimberi throughout the year were female.⁴⁶ However, it is common to only have one or two young women in Bimberi at the same time (Figure 5). This creates challenges regarding the accommodation placement of young women in Bimberi, especially where some of the young women cannot be accommodated together due to conflicts.

45 AIHW (n 1) Table S118.

46 CSD (n 7) 6.

Figure 5: Average daily number of young detainees in the ACT, 2014–15 to 2019–20



Data source: Report on Government Services (2021), *Youth justice services*, Table 17A.3.

The CYP Act requires male young detainees to be segregated from female young detainees, except where there are reasonable grounds to believe that another placement will be in the best interests of all affected detainees.⁴⁷ When some members of the review team were onsite, one young woman was being accommodated in a unit with a young man. They were of a similar age and the young woman felt having someone else in the unit was of great support. The review team felt that Bimberi taking an individualised approach to young detainees that is not just dependant on their gender resulted in a good outcome in this situation.

Another positive was that both young women told us that they are only searched by female staff members, including at admission. Staff we spoke to confirmed this and said that they will call a female staff member over from a different area if needed.

Young women are provided with feminine hygiene products in their toiletries pack, and more are provided when they need without the young woman having to ask. This is good practice.

Regarding programs and activities, Bimberi advised that they do not create gender-specific programs but instead tailor programs to the individual young detainees in the centre. For example, some young women expressed an interest in learning how to apply make-up and so access to programs and resources was facilitated. The review team considers this to be good practice because it is also removing the assumption that all young women will be interested in the same activities.

Community organisations raised that young women in Bimberi do not get equal access to programs and activities and feel discriminated against compared to the male young detainees. One of the young women we interviewed raised this in her interview, but only in the context of not being able to mix with other young detainees. She said that she is not allowed to do many activities with the young men, and this makes her “feel left out”. While there may be systemic issues in this area, it was beyond the scope of the review to look at this in more detail.

⁴⁷ *Children and Young People Act 2008 (ACT)*, s 166.

Finding 43:

That, in general, Bimberi Youth Justice Centre takes a gender-responsive approach to the young women in their care.

3.2.3 Aboriginal and Torres Strait Islander young detainees

From 2017–18 to 2019–20, Aboriginal and Torres Strait Islander young detainees made up about 25% of the population of Bimberi (Figure 6), despite only making up 3% of those aged 10–17 in the general ACT population.⁴⁸ In 2018–19, Aboriginal and Torres Strait Islander young detainees spent on average 40 days in youth detention in the ACT, compared to non-Indigenous youth who spent an average of 28 days.⁴⁹

Figure 6: Aboriginal and Torres Strait Islander young detainees at Bimberi

Source: Bimberi Headline Indicators December 2020.

The review standards require that the distinct cultural rights of Aboriginal and Torres Strait Islander young detainees are realised. There are some areas relating to this standard where improvements can be made, as discussed below. This would help create and maintain a culturally safe environment and uphold the rights of Aboriginal and Torres Strait Islander young detainees and staff.

Community and service provider engagement

Several Aboriginal and Torres Strait Islander services deliver programs and supports to young detainees in Bimberi. Many of these relationships were established in the Quamby Youth Detention Centre and have continued into Bimberi. Gugan Gulwan, for example, have a long association with Bimberi, particularly through the art and music program delivered weekly to young detainees. Young detainees told us that they enjoy visits from Aboriginal and Torres Strait Islander staff because it gives them a regular activity to engage in and also an Aboriginal and Torres Strait Islander person that they can talk to.

48 Australian Institute of Health and Welfare, *Fact sheet: Youth justice in the Australian Capital Territory 2018–19* (15 May 2020).

49 AIHW (n 1) Table S104.

Staff from the Dhunlung Yarra team at Relationships Australia attend Bimberi to provide therapeutic services to young detainees. They attend fortnightly and on an as-needed basis to provide individualised interventions to young detainees. Both male and female counsellors are available to provide counselling and support for the young detainees. Staff from Dhunlung Yarra also provide group counselling and yarning sessions. This can be provided at the request of the young detainees. These group sessions are currently delivered in the Bimberi Visits Centre.

The Aboriginal Legal Service NSW/ACT (ALS) and Legal Aid ACT (including the Aboriginal and Torres Strait Islander cultural liaison officers) also have an ongoing relationship with Bimberi. Young detainees are able to contact staff from the ALS and Legal Aid ACT free of charge on their phone accounts. Staff from the ALS and Legal Aid ACT visit young detainees in Bimberi to discuss their legal matters.

Bimberi staff, young detainees, stakeholders and community members participate in a number of celebrations during the year, including NAIDOC Week. These celebrations are an opportunity for the young detainees to celebrate their culture and identity, while also maintaining a connection with their family and community.

Photo 9: Artwork by Dale Huddlestone (Gugan Gulwan) and young detainees at Bimberi, completed with members of the review team



*Spiritual centre***Photo 10: Entrance to Bimberi spiritual centre**

Source: OICS 2020

Photo 11: Inside Bimberi spiritual centre

Source: OICS 2020

Bimberi has a spiritual centre and an outdoor fire pit that can be used as spaces to deliver programs and services. Throughout the review, several stakeholders identified that these spaces are underutilised. These spaces could be used by young detainees as a place to connect to community and culture, such as by being used for yarning circles. They could also be used as a safe space for young detainees to meet with key stakeholders and talk through some of the challenges they are experiencing.

Photo 12: Fire pit at Bimberi



Source: OICS 2020

Importantly, these places could also be used as a means of increasing the involvement of the community in Bimberi, including local Aboriginal and Torres Strait Islander Elders and community leaders. For example, the Kurulbo Yarning Circle in Logan, Queensland, is used as a place for sharing, storytelling and healing specifically for young people living at supervised community accommodation. It is driven by local Elders and supported by community organisations and is an environment where young people involved in the youth justice system can be supported to change their story.⁵⁰

Finding 44:

That the spiritual centre and fire pit are underutilised as a place to connect Aboriginal and Torres Strait Islander young people with their community and culture.

Recommendation 13:

That Bimberi Youth Justice Centre arrange for the spiritual centre and the fire pit to be used for regular yarning circles to connect Aboriginal and Torres Strait Islander young detainees with their community and culture.

Cultural awareness training

The delivery of cultural awareness training is a requirement of the *Children and Young People (Aboriginal and Torres Strait Islander Young People) Policy and Procedure 2018 (No 1)*. Despite this, several external stakeholders raised concerns around the current arrangements for cultural awareness training in Bimberi. For example, one stakeholder stated that the training “does not always filter into the operations [of Bimberi]”. Another suggested that “Bimberi needs to do bi-annual cultural awareness training for all staff”.

50 Queensland Government Department of Youth Justice, ‘Creating a place to connect to community and culture’ (25 October 2020) <https://www.youthjustice.qld.gov.au/news/our-stories/creating-place-connect-community-culture>.

In their induction training, youth detention officers have one session of one and a half hours on 'Aboriginal and Torres Strait Islander Young People' delivered by the Family Engagement Officer. There were no cultural awareness sessions listed in the 2019 or 2020 skills maintenance training calendars. The review team believes that this is insufficient training for people who are responsible for the care and management of Aboriginal and Torres Strait Islander young people.

Undertaking structured and frequent cultural awareness training would ensure that Bimberi staff understand how to work effectively with Aboriginal and Torres Strait Islander young detainees, their families and community. Importantly, training must centre on the family and cultural issues experienced by Aboriginal and Torres Strait Islander people in a youth justice context.

Finding 45:

That there is insufficient Aboriginal and Torres Strait Islander cultural awareness training for staff at Bimberi Youth Justice Centre.

Monitoring cultural competency

The *Aboriginal and Torres Strait Islander Young People Policy and Procedure* outlines the principles, policy and practice to facilitate the effective and efficient management of Aboriginal and Torres Strait Islander young detainees. This instrument covers key areas of engagement with Aboriginal and Torres Strait Islander young detainees, including the requirement to partner with and deliver culturally specific programs and services; maintain positive relationships between young detainees and Bimberi staff; and to embed ongoing cultural awareness training to provide staff with a better understanding of the current and historical issues faced by Aboriginal and Torres Strait Islander peoples.

There is evidence that Bimberi is embedding some these principles, policies and practices into their day-to-day operations. However, there is no clear framework or governance structure to enable Bimberi management to monitor the performance of this. One way to do this is to develop a Cultural Competency Framework. This is a framework developed in collaboration with the local Aboriginal and Torres Strait Islander community, including young people. Developing a framework will ensure that systems and processes are in place within Bimberi to support the cultural needs of young detainees and Aboriginal and Torres Strait Islander staff.

Embedding a framework will also contribute to Bimberi becoming a more culturally safe environment for young detainees and staff. Cultural safety is critical to the social, emotional, physical and mental health of Aboriginal and Torres Strait Islander peoples and communities, recognising that 'every person needs to feel that their sense of self and identity is valued in some way by the people and environments that surround them'.⁵¹

Finding 46:

That there is evidence Bimberi Youth Justice Centre is implementing some of the principles, policy and practices outlined in the *Children and Young People (Aboriginal and Torres Strait Islander Young People) Policy and Procedure 2018 (No.1)*.

51 R Franklin, M Bamblett and P Lewis, 'Forever Business: A Framework for Maintaining and Restoring Cultural Safety in Aboriginal Victoria' (2011) 7(24) *Indigenous Law Bulletin*.

Finding 47:

That there is no clear governance and monitoring arrangements for the policies and practices relating to Aboriginal and Torres Strait Islander young detainees.

Recommendation 14:

That the Community Services Directorate develop an Aboriginal and Torres Strait Islander Cultural Competency Framework specifically for Bimberi Youth Justice Centre that ensures that all aspects of Bimberi Youth Justice Centre's services are culturally competent and safe, including through appropriate staff training.

3.2.4 Young detainees with disabilities

Research shows that young people with a disability are overrepresented in the youth justice environment. For example, New South Wales health surveys conducted in 2003, 2009 and 2015 have consistently shown that 83 to 88 per cent of young people in custody have a psychological disorder and 14 to 18 per cent have an intellectual disability.⁵² The ACT Disability Justice Strategy 2019–2029 is a welcome initiative, and the review team was pleased to observe some progress on commitments made by the Office for Disability, CYPS, and CSD.

Under the ACT Disability Justice Strategy, CYPS has committed to develop and implement a Disability Action and Inclusion Plan (DAIP) by 2022.⁵³ A DAIP would detail Bimberi's plans to make its environment, programs, and services more accessible to people with a disability (including young detainees, staff and visitors). It would consolidate Bimberi's commitment to diversity and inclusion.

DAIPs also provide a framework for the provision of reasonable adjustments and responding to the diverse needs of people with disability. In the review team's opinion, CYPS should prioritise their commitment to develop a DAIP ahead of the deadline of the end of 2022 and have a specific focus within the plan (or a separate plan) for Bimberi given that closed environments have unique considerations compared to community settings. Earlier completion would promote a more cohesive approach to improving Bimberi's disability responsiveness.

Finding 48:

That there are measures already underway to implement commitments made under the ACT Disability Justice Strategy, but early completion of the Disability Action and Inclusion Plan that covers Bimberi Youth Justice Centre would promote a more cohesive approach.

52 Chris Cuneen, Barry Goldson and Sophie Russell, 'Juvenile Justice, Young People and Human Rights in Australia' (2016) 28 *Current Issues in Criminal Justice*, 173, 175–6, cited in Australian Children's Commissioners and Guardians, *Statement on Conditions and Treatment in Youth Justice Detention* (November 2017) 9.

53 Community Services Directorate, *ACT Disability Justice Strategy* (2019), Action 4.2, 32.

Data on disability

Bimberi does not capture data on young detainees who identify as having a disability and who require reasonable adjustments, nor whether a young detainee has a National Disability Insurance Scheme (NDIS) plan. Collecting data on disability to better understand and respond to needs could greatly improve Bimberi's interaction with and models for working with young detainees with disabilities across health, education, and social engagement. This is recognised in Goal 3 of the ACT Disability Justice Strategy which is that 'change is measured and achieved'.

Finding 49:

That data is not collected on the prevalence of disability among young detainees at Bimberi Youth Justice Centre.

Identifying disabilities and disability assessments on admission

The review standard that there are appropriate and timely assessments conducted to identify the needs of young detainees with disabilities, including young detainees presenting with potentially undiagnosed conditions, was found to be partially met. Bimberi does not currently use a disability screening tool. Disability may be picked up through the initial health and mental health assessment on induction at Bimberi or subsequent referrals that arise after screening. However, this is a health framework not specifically focused on identifying needs and reasonable adjustments that can be put in place to support young detainees. The Allied Health pilot project (discussed below) provides some assessments and Murrumbidgee School conducts basic education-based assessments.

The lack of disability screening and assessment is currently being addressed by Bimberi and the ACT Office for Disability. As part of the ACT Disability Justice Strategy, a reasonable adjustments tool based on the Washington Group Tools is being developed. It seeks to 'trigger an awareness of the unique needs that individuals experience as a result of having a disability'⁵⁴ and identify whether an individual will require reasonable adjustments when interacting with the justice system. The tool is a series of short and simple questions and an observational component where youth detention officers observe behaviour, memory and thinking. It is also designed to prompt disability awareness and cultural attitudinal change among people who work with young detainees to create a support response. This is a positive development, and it is important that this work continues. This includes ensuring that screening leads to appropriate assessments and provision of reasonable adjustments. Furthermore, additional staff training on disability will be important, as discussed below.

Finding 50:

That there is currently no clear screening pathway to identify the needs, development and support requirements arising from a disability. However, work is underway to introduce a disability screening tool at Bimberi Youth Justice Centre.

54 Ibid Action 3.1, 7.

The review team were taken step by step through a mock admission. There was limited evidence of disability being considered through this process. The physical environment of the admissions unit is mainly concrete and metal and young detainees with hearing difficulties or who are neurodiverse (for example, who have ADHD or autism) and struggle with loud and startling noise would find it challenging.

It was positive that there was an induction video, but it was difficult to hear due to the environment, there were no closed captions, and it contained a lot of information delivered fairly quickly. There was no Easy English version of the Bimberi Handbook, nor Easy English posters or other visual aids to explain processes and systems. This is particularly important for communicating information about expectations of behaviour because it is important that young detainees understand the rules that they are expected to follow. Overall, the accessibility of information for young detainees is problematic for those with an intellectual/cognitive disability and would also be challenging for young detainees who have low literacy or are not fluent in English.

Finding 51:

That the communication of information to young detainees on admission is not accessible for those with certain disabilities or low literacy.

The Allied Health Pilot

Bimberi commenced an Allied Health Pilot program in June 2020 which utilises a speech and language therapist, occupational therapist and clinical psychologists already within CYPS. This team conducts 'screening and assessment of young detainees, training for staff about reasonable adjustments and consultation and input on the development of programs and documentation available to young people within Bimberi.'⁵⁵ The review team is of the opinion that it fills an important gap in therapeutic services and should be continued, subject to any areas for improvement identified in the Pilot evaluation.

Finding 52:

That the Allied Health Pilot is a much-needed service that provides therapeutic assessments to help identify appropriate supports and reasonable adjustments for young detainees with a disability.

Recommendation 15:

That the Community Services Directorate provide ongoing funding for allied health services in Bimberi Youth Justice Centre.

55 CSD (n 7).

Staff training

The review team identified a need for more in-depth staff training on disability awareness. Youth detention officers cannot be expected to be experts on identifying disability or putting in place reasonable adjustments. However, all youth detention officers should be trained in basic disability awareness as they spend the most time with young detainees and are responsible for responding to their behaviour.

At the time of the review, the Bimberi 8-week induction course included a session from the Australian Childhood Foundation on 'Young People who have experienced Trauma/Sexualised Behaviour' (2 days), and on young people with a cognitive impairment (1.5 hours). The ACT Office for Disability is currently working with Bimberi to implement training modules, including on Easy English, which is a positive development. Furthermore, the new role of Disability Liaison Officer working across CYPS is intended to build staff capacity in disability and this should prove an asset for Bimberi to utilise. However, there should be significant (at least half a day) training on awareness of disability in a youth justice environment as part of the induction course (that current staff should also complete) with additional ongoing refresher training and/or more specific courses. Training that is focused on changing attitudes and behaviours as well as imparting knowledge, such as the Access All Areas Disability Training by Rebus Theatre Company, could be considered.

Finding 53:

That Bimberi Youth Justice Centre's training schedule does not provide an adequate grounding in disability awareness for youth detention officers.

Recommendation 16:

That Bimberi Youth Justice Centre incorporate mandatory basic training in disability awareness in the youth justice environment for all staff, with refresher training at appropriate intervals.

3.2.5 Religious, spiritual and cultural life

Young detainees are asked about their religious and cultural beliefs and practices at induction. CSD advised that not many young detainees nominate a religion or spiritual preference or affiliation on induction. Due to the size of the population, it is not practical for Bimberi to have regular religious or cultural services attend the centre. Instead, external services are engaged when a young detainee expresses that they have religious, spiritual or cultural needs. At the time of the review, there were no specific religious services or programs operating as none of the young detainees had requested any. However, religiously appropriate food is provided and at the time of the review the kitchen staff noted that they were preparing Halal food for a Muslim young detainee.

There is limited information about practising religion or culture in the Bimberi Handbook. A young detainee may not feel comfortable nominating their religion at induction or be too overwhelmed to do so. Therefore, the Bimberi Handbook should include information about how they can do that later and how they will be supported to meet their religious, spiritual and cultural needs.

Finding 54:

That the religious, spiritual and cultural needs of young detainees are catered for as they arise.

Finding 55:

That the Bimberi Handbook contains insufficient information about how young detainees can practise their religion or culture in Bimberi Youth Justice Centre.

3.3 Health, wellbeing and social care

3.3.1 Primary health care

The review standard that young detainees' individual, ongoing health needs are addressed through an appropriate range of care services was found to be met. Bimberi has a health clinic that operates seven days a week with a single Registered Nurse (RN) on shift from 8am to 4:30pm daily. Management of the staff occurs through integration with the management team at the AMC. After hours support is through an on-call phone-based support service to the nurse manager and/or GP.

Bimberi has a weekly GP clinic of up to four hours, based on how many young detainees have been put on the list by the RN for assessment or review. Given the number of young detainees in Bimberi, the review team considers this model to be appropriate and that there is a reasonable amount of primary care hours. The review team acknowledges that the short length of stay of most young detainees provides challenges for any interventional approach to health care delivery, health education or health management.

The clinic has a clinical room, an interview room (used for mental health) and a procedure/emergency room. While the overall clinic space is small, the area appears functional and appropriately stocked for the risk and patient profile of the centre. However, the design and layout of the clinic would have safety and egress issues if a young detainee was to become aggressive. The interview room, which is predominately utilised by mental health, had a secondary door which is appropriate and required for staff safety.

At the time of the review, health staff were sharing an open plan office space with Bimberi staff. This is inappropriate as it compromises confidentiality of health information. Members of the review team observed telephone and face to face conversations about young detainees' health conditions that could easily be heard by Bimberi staff.

It was also raised with the review team that Bimberi's staffing levels impact on the provision of health services because sometimes they do not have enough youth detention officers to escort young detainees to the client services building. We were told of occasions where members of the Custodial Mental Health Assertive Response Team (CMH ART) have had to wait long periods of time before they could conduct their assessments of young detainees. There are no appropriate facilities in the units for young detainees to be seen in private. We were also told that sometimes other activities and programs are scheduled at the same times as clinics and other health appointments and young people end up not attending health appointments.

Finding 56:

That Bimberi Youth Justice Centre has an appropriate primary health care model.

Finding 57:

That health staff do not have their own office space and so the confidentiality of some health information is compromised.

Recommendation 17:

That Bimberi Youth Justice Centre consult with Justice Health Services to find a workable solution for Justice Health staff office space that does not compromise patient confidentiality.

Finding 58:

That operational limitations at Bimberi Youth Justice Centre sometimes result in health staff having to wait for long periods to see young detainees.

External health services

Canberra Health Services is used for secondary specialist reviews. The waiting list and waiting periods were reported to be comparable to public access times and young detainees do not receive higher levels of priority than the general public.

Telehealth is not frequently used at Bimberi and the set-up is not ideal as it is done via a laptop in the clinical room. Telehealth use could be increased for specialist review and treatment. This would not only increase access to specialist review, but also potentially be an improvement from security and transport perspectives.

Health needs of young detainees

As far as the review team could determine, there has been no formal assessment of the health needs of young people in custody in the ACT. This could be done to gather data on the needs of young detainees in Bimberi to ensure the services being delivered are suitable. For example, Juvenile Justice NSW and the Justice Health and Forensic Mental Health Network conduct the Young People in Custody Health Survey every six years.⁵⁶ The 2015 survey had an improved measurement of disability and included a screening tool for intellectual disability. As discussed in section 3.2.4, this is an area that Bimberi also lacks data on.

Given the population size of Bimberi, utilising other jurisdictions evidence-based assessments of the health needs of young detainees may be appropriate. Alternatively, Bimberi could participate in cross-jurisdictional research on this.

Finding 59:

That there is no data collected on the health needs of young detainees at Bimberi Youth Justice Centre.

56 NSW Government, Communities and Justice, 'Young People in Custody Healthy Survey: A long-term research partnership' (14 December 2020) <https://www.dcj.nsw.gov.au/about-us/research-strategy/our-research-projects-and-partners/chapters/young-people-in-custody-health-survey-a-long-term-research-partnership>.

Health promotion and education

The review standard that young detainees are supported and encouraged to optimise their health and wellbeing was found to be partially met, but there is a lack of comprehensive health education at Bimberi. Nursing staff provide opportunistic health education during the health assessment process and during primary health clinics, and there are also a few posters on the wall in the clinic waiting area.

In the area of drug and alcohol treatment and education, Ted Noffs Foundation provide some alcohol and other drug health promotion sessions and Winnunga Nimmityjah Aboriginal Health and Community Services (Winnunga) run a quit smoking program in Bimberi. Canberra Health Alcohol and Drug Services (ADS), Youth Drug and Alcohol Counselling Service provides flexible weekly counselling for young detainees referred by Bimberi or CYPS. These counsellors also provide education sessions for new staff at Bimberi to support them to identify young detainees with potential signs of substance withdrawals who would benefit from ADS support. However, this does not appear to be an integrated and coordinated plan or model with primary health.

Regarding population health and sexual health, the RN offers opportunistic sexually transmitted infection and blood borne virus screening on induction. CSD advised that Sexual Health and Family Planning ACT provide psychoeducation for young people on safe sexual behaviours and were planned to attend Bimberi in late 2020. However, this is ad hoc and there does not appear to be a dedicated screening or health promotion and risk prevention program.

A key role of the primary health model within youth justice settings is health education and health literacy. Although young detainees stay, on average, for a period of weeks or months, this is an opportunity to increase young detainees' awareness about key health issues and of harm prevention and minimisation. It is therefore important that health promotion activities undertaken at Bimberi are clinically informed, comprehensive and cohesive with Bimberi and Murrumbidgee's health education activities.

Finding 60:

That there is no comprehensive health education program at Bimberi Youth Justice Centre.

Recommendation 18:

That Justice Health Services commission an independent review of the health education model at Bimberi Youth Justice Centre with a view to identifying gaps and developing an evidence-based comprehensive health education program.

3.3.2 Medication management

The review standards that young detainees receive community equivalent medicines optimisation and that Bimberi has safe facilities and procedures for the distribution of medication were found to be met.

Medication dispensing occurs through the Canberra Hospital in individual dose sachets. This is best practice and reduces the risk of medication errors. An electronic medication management system has recently been implemented. This allows remote prescribing by the GP, ordering of the medication to be dispensed in individual sachets and recording of medication administration by the RN. This is leading practice.

The HRC raised concerns about the administration of medication in their *Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre*. Between November 2017 and November 2018, there were 15 “medication incidents” recorded, including young detainees not receiving the evening dose of their medication and medication administration procedures not being followed by Bimberi staff leading to errors.⁵⁷ In response to that review, improvements have been made to medication administration, including all delegated staff completing refresher training on the administration of medication and the use of individual dose sachets.⁵⁸

Members of the review team observed medication rounds at Bimberi. For evening medications, young detainees were escorted to the health clinic at about 6pm (after the RN’s shift has ended). Administration occurred in an area adjacent to the clinic with the youth detention officer correctly identifying each young detainee and then observing them self-dosing from the pre-packaged single dose medication that has been prepared by an external pharmacist. Young detainees told the review team that sometimes the administration of medication occurs in the unit by officers rather than them being brought to the clinic. Bimberi advised that this did occur when the centre was short-staffed, but it now only occurs if absolutely necessary, such as if a young detainee is on a health segregation order.

Having youth detention officers administer medication is not best practice. However, given the low number of young detainees, the appropriate labelling of medications and assuming that no high-risk medications are being administered by officers, it may be reasonable on a cost-benefit basis. The officers and the RN demonstrated appropriate checks and balances for evening medications. For example, there is an audit process in place for recording the dose provision at the next shift with the RN.

Finding 61:

That improvements have been made to medication administration at Bimberi Youth Justice Centre that appropriately manage risks.

3.3.3 Oral health

Dental and oral health at Bimberi is provided through the Canberra Hospital. A dentist attends the site on a regular basis. Community-based dental services are also booked for young detainees who might be released back to the community. These are delivered through Canberra Health Service’s public dental services.

Due to COVID-19 restrictions, the dental van had not been at Bimberi for a few months. Therefore, we were unable to review the dental services that are provided to see whether an oral health promotion approach is taken.

57 HRC (n 11) 87.

58 Rachael Stephen-Smith MLA, *Letter to Discrimination, Disability, Health and Community Services Commissioner Karen Toohey responding to the Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre* (May 2020) 7.

3.3.4 Aboriginal and Torres Strait Islander health

Aboriginal and Torres Strait Islander young detainees do not have access to comprehensive Aboriginal primary health services. There are limited referrals made to Winnunga and these are made on a case-by-case basis, rather than there being any formal system of partnership as there is at the AMC. Transfer back to the community was also reported as being a challenge with only 'encouragement' to attend Winnunga post release.

This issue could be addressed through the Cultural Competency Framework in recommendation 14.

Finding 62:

That Aboriginal and Torres Strait Islander young detainees in Bimberi Youth Justice Centre do not have access to comprehensive Aboriginal primary health services.

3.3.5 Mental health

The review standard that there be age and culturally appropriate mental health services available for young detainees with actual or suspected mental health issues at Bimberi was found to be substantially met. Mental health services at Bimberi are provided by the Custodial Mental Health – Child and Adolescent (CMH-CA) team within the FMHS branch of JHS.

CMH-CA operates a weekly mental health clinic for young detainees at Bimberi. An adolescent psychiatrist attends Bimberi one day a fortnight. The Custodial Mental Health Assertive Response Team (CMH ART) in CMH-CA provides a daily service for induction mental health screenings and crisis assessment and management of young detainees at immediate risk of self-harm or suicide. Overall, the mental health services provided in Bimberi are consistent with the services provided in the community.

The main source of referrals to FMHS are youth detention officers. The review team was told that youth detention officers are vigilant in identifying risks of self-harm and suicide, but not as skilled at identifying signs of mental illness. This is understandable considering they are not trained medical professionals. We were advised that FMHS are working on formalising the system of referrals and ensuing operational staff know what to refer. This should assist youth detention officers.

Psychological support for young detainees

The review team found that there are not sufficient coordinated services in Bimberi for adjustment disorders, mild-to-moderate mental health conditions and grief and loss support. Young detainees who are not eligible for psychological services through FMHS currently have their therapeutic needs identified on an ad hoc basis. They may receive therapeutic services through an external agency, such as the Ted Noffs Foundation. Where a young detainee has been previously engaged with a psychologist in the community, Client Services will encourage that external provider to attend Bimberi to continue to work with the young detainee.

While the position of Principal Practitioner in Client Services is currently filled by a Registered Psychologist, they do not routinely provide direct clinical services to young detainees. Murrumbidgee School has a counsellor that attends the centre once a week to meet with young detainees individually.

The ad hoc support and the fact that it is provided by people from different Directorates is also impacted by sub-optimal coordination and information sharing between the Directorates discussed in section 2.5.2.

Finding 63:

That the level of psychological services available for young detainees at Bimberi Youth Justice Centre is sub-optimal.

Finding 64:

That there is insufficient inter-Directorate coordination around psychological services.

Recommendation 19:

That Bimberi Youth Justice Centre provide a dedicated psychologist function to enhance the capacity of Client Services to provide psychological support and programs to young detainees.

Psychotropic medications

A number of stakeholders, mostly from community organisations, raised issues about the transfer of information regarding antipsychotic medications for young detainees released back into the community. We heard that young detainees often do not know what the medication they have been prescribed is for and they do not have a document stating that it is a 'medication for purpose'. This is an issue because service providers are required to justify the use of certain medications to the ACT Office of the Senior Practitioner.

The ACT Office of the Senior Practitioner was established to provide a formal framework for the reduction and elimination of restrictive practices in the ACT. Chemical restraint is one of these practices and is defined as 'the use of medication or chemical substance for the primary purpose of influencing a person's behaviour'.⁵⁹ It does not include the use of a chemical substance prescribed by a medical practitioner to enable the treatment of a mental or physical illness.

Bimberi is not covered by the *Senior Practitioner Act 2018*, but care and protection services for children and young people is. This means that if a young detainee leaves Bimberi and goes into a residential care facility, the service provider will have to report any restrictive practices. This means that they need to know why the medication has been prescribed. JHS advised that they do a transfer of care to a community clinical care provider when a young detainee is discharged and then it is up to the community clinical care provider to share that information with other service providers in the community as appropriate.

The review team is satisfied that medication is being prescribed with an appropriate diagnosis in Bimberi. However, we appreciate that the lack of documentation provided to residential care providers around the purpose for which psychotropic medication is prescribed is creating challenges and concerns about the potential use of chemical restraints.

59 ACT Community Services Directorate, 'ACT Senior Practitioner for the elimination and reduction of restrictive practices' (16 March 2021) <https://www.communityservices.act.gov.au/quality-complaints-and-regulation/office-of-the-senior-practitioner/act-senior-practitioner-fact-sheet>.

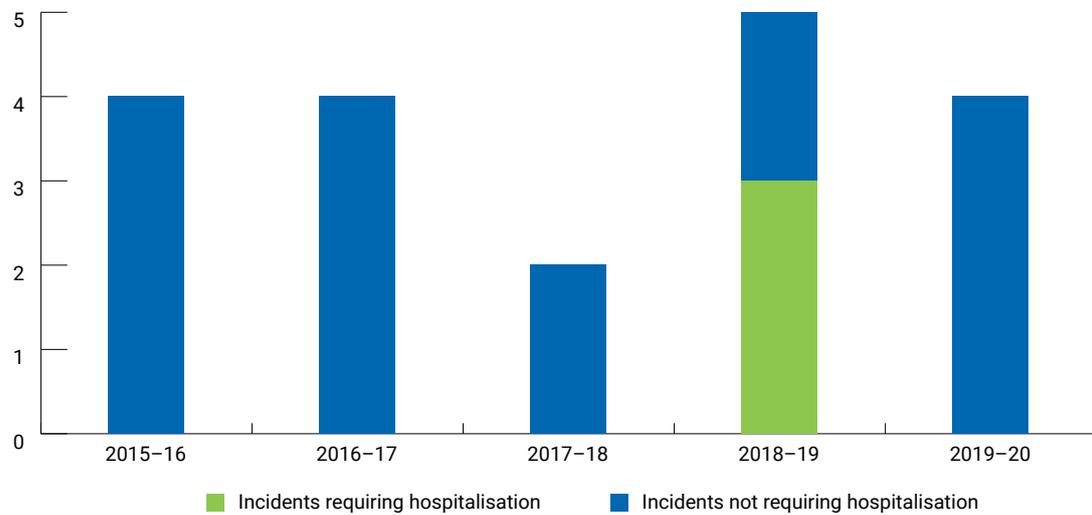
Finding 65:

That where young detainees are prescribed psychotropic medication, the specific reason for the prescription is often not effectively communicated with young detainees and residential care providers.

Self-harm and suicide prevention

The review standard that young detainees who are at risk of self-harm or suicide are promptly identified and a support plan is created for them was found to be met. The psychiatrist noted that the number of self-harm incidents at Bimberi are low (as indicated in Figure 7).

Figure 7: Incidents of self-harm and attempted suicide in youth detention in the ACT



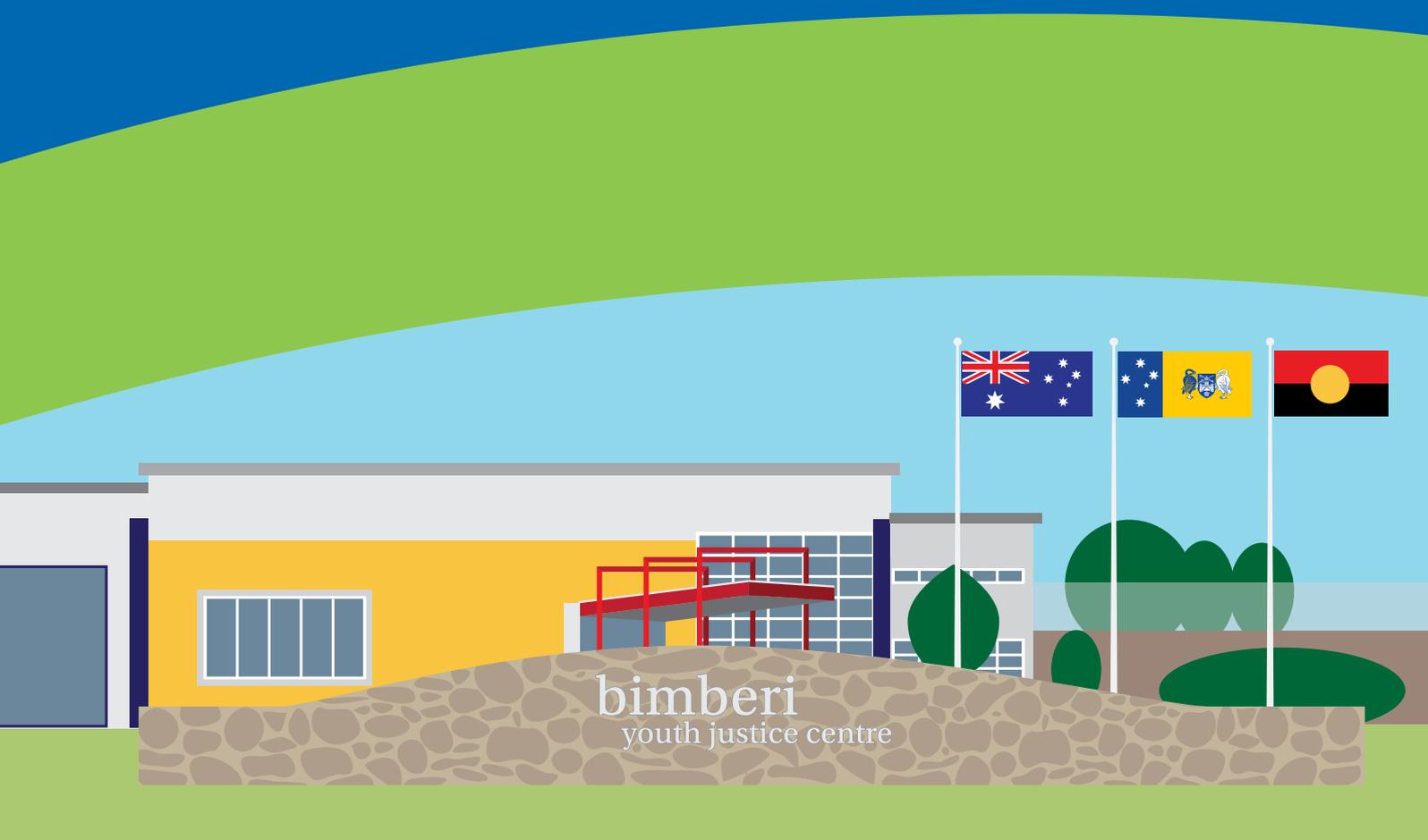
Data source: Report on Government Services (2021), *Youth justice services*, Table 17A.18

Youth detention officers are the primary notification and referral source of at-risk young detainees. FHMS informed us that youth detention officers are cautious and have a low threshold for initiating a referral. The review team considers this to be a positive. Referrals for at-risk young detainees are triaged by FMHS and then they are responded to within 2 hours, 24 hours or 72 hours, depending on the category of risk.

Following an in-person assessment, the CMH ART gives Bimberi a notification form outlining the assessment and recommendations around observation, placement and any extra measures which might be required. All young detainees who have been placed on 5- or 15-minutes observations are reviewed daily in-person by a member of the CMH ART. The review team is of the opinion that these processes adequately make up for FMHS not being onsite at Bimberi all the time.

CHAPTER 4

Purposeful activity



4. Purposeful activity

4.1 Time out of cabins and units

4.1.1 Daily routine

The review standard that young detainees have a structured daily routine was found to be met. On Monday to Friday, young people are woken and unlocked at 8:30am-9am. On Tuesdays, young detainees are released from their cabins later to facilitate staff training. CSD advised that young detainees are released by 9:30am. In their interviews, young detainees told us that they are regularly unlocked late in the morning (extended overnight lock-in) and it can be anytime from 9:30am to as late as 11am. Young detainees told us that they are not informed if unlock is going to be late, so they just sit in their cabins and wait, which causes frustration and impacts on their wellbeing. The review team was told by other stakeholders that it can mean the first lesson of the day is missed. The recording of these extended overnight lock-ins is discussed below.

The day is then split into five lessons with three meal breaks in between. There are two afternoon programs run, such as gym, pool or PlayStation in their unit, and then dinner is served at 5:30pm. After dinner, young detainees complete their chores and have free time in the unit before they are secured in their cabins at 7:30pm. On weekends, the routine is roughly the same, except several programs are scheduled in place of lessons.

Some young detainees told us that they would like to be secured later than 7:30pm because there is too much time before they go to sleep, and they get bored in their cabins. One young detainee said he would prefer to have "12 hours in, 12 hours out" of their cabin, rather than the current 13 hours they are secured in their cabins. The review team appreciates that this would have staffing implications as youth detention officers work on 12 hours shifts. However, without food or many activities to do in their cabins, it is a long period for young detainees to be locked in their cabins.

Finding 66:

That young detainees have a structured day at Bimberi Youth Justice Centre.

Finding 67:

That young detainees would prefer a later lock in time in the evening.

Restrictions on young detainees attending programs, lessons and activities together

The program and lesson timetables are risk assessed daily to see which young detainees can attend together. For example, whole of centre sport is a popular program and a decision is made each day about which young detainees can attend. It is positive that this is reviewed each day at the morning briefing so that dynamic factors, such as recent positive behaviour, can be factored into which young detainees can mix with others. At breakfast, young detainees are told what their schedule will be for the day.

In the interviews, young detainees unanimously told us that they would like to be able to mix more with other young detainees. Those who had been in Bimberi before said that they used to be allowed to mix with other young detainees more frequently. One young detainee said that he has a low-risk classification, but when he was in Bimberi last time on that classification he was allowed to do a lot more, such as mix with everyone and walk around the centre unescorted.

One young detainee told us that mixing has been reduced because now “everyone wants to fight each other”. As noted in section 2.1, the most common reason young detainees we interviewed felt unsafe was conflicts between young detainees. However, reducing the mixing of young detainees has meant that some young detainees do not get much time out of their unit. For example, the young detainees who can mix may be scheduled for three lessons in the education block but the young detainee who cannot mix may only get one and remains in the unit for the other lesson slots. The quotes from young detainees in the text box indicate the impact this is having on some young detainees. Mixing is particularly important for those who are accommodated in units by themselves.

“I can only talk to older youth workers... I need to be with other people my age, it's about being normalised.”

“They always see it as a risk but it might be that I need to get out of my unit”

“They expect me to sit on the oval and kick the ball to myself.”

Comments made by young detainees in interviews

The review team appreciates that this is a complex issue for Bimberi to manage. They are responsible for the safety of young detainees, including from risks of harm from other young detainees. This must be balanced with the importance of a change of environment and positive peer interaction to healthy development, particularly for mental health. Without examining the individual circumstances of young detainees (which would require the focus of a thematic rather than whole of centre review) the review team is unable to comment on whether Bimberi is appropriately balancing these considerations in the mixing it allows and restricts.

Finding 68:

That young detainees would appreciate being able to mix with other young detainees more frequently.

4.1.2 Lockdowns

The *Children and Young People (Safety and Security) Policy and Procedures 2018 (No 1)* defines a lockdown as:

the operational response that is an interruption to daily routine. Young people and other people are asked to remain in a particular place for a period of time in order to manage a risk to safety and security of young people or other people at a detention place (e.g to manage a serious or life threatening injury or health complaint, a lock down may be required to prevent the entry to, or exit from, a detention place by any person other than emergency response services). Lock down does not involve segregation.

Lockdowns impose significant limitations on the rights of young detainees as well as negatively impacting their wellbeing and rehabilitation. The Australian Children's Commissioners and Guardians state:

Children and young people in youth justice detention experience lockdowns as a form of isolation and as a form of punishment ... Unscheduled lockdowns contribute to emotional instability in children and young people with histories of trauma, and are contrary to trauma-informed approaches to youth justice practices. Lockdowns can reduce children and young people's access to education and health services in youth detention centres, and can lead to visits with family being cancelled.⁶⁰

Therefore, lockdowns should be used as a last resort and in strictly limited circumstances.⁶¹

The *Safety and Security Policy and Procedures* states:

6.91 If a youth worker suspects or becomes aware that there has been a failure to a safety or security system, the officer must do the following...

- d) if appropriate or necessary, call the appropriate code and seek assistance, or direct the locking down of all young people and/or the securing of the detention place.

There are no other details about the use of lockdowns in notified policies and procedures applying to Bimberi. For example, what records must be kept and how to ensure young detainees still receive their minimum entitlements while in extended periods of lockdown.

Some of this information is contained in the Practice Guide *Operational Lockdowns at Bimberi Youth Justice Centre*, which is not a public document or available to young detainees. It states that during a lockdown 'young people are asked to remain in their cabins for a period of time'. However, it does not state that young detainees are to be secured in their cabins or what will happen if they refuse.

Finding 69:

That there is limited publicly available information on the circumstances under which lockdowns occur in Bimberi Youth Justice Centre and what safeguards are in place to limit the effects of lockdowns on young detainees.

Lockdowns caused by staff shortages

In 2019–20, Bimberi operations were characterised by rolling operational lockdowns⁶² caused by staff shortages. This meant that in 2019–20, young detainees spent a minimum of 54% and up to almost 85% of hours each month in lockdown.⁶³ After a recruitment drive, Bimberi was back to its full staffing complement in April 2020 and the use of lockdowns decreased.⁶⁴

60 Australian Children's Commissioners and Guardians, *Statement on Youth Justice Detention* (November 2017) 22.

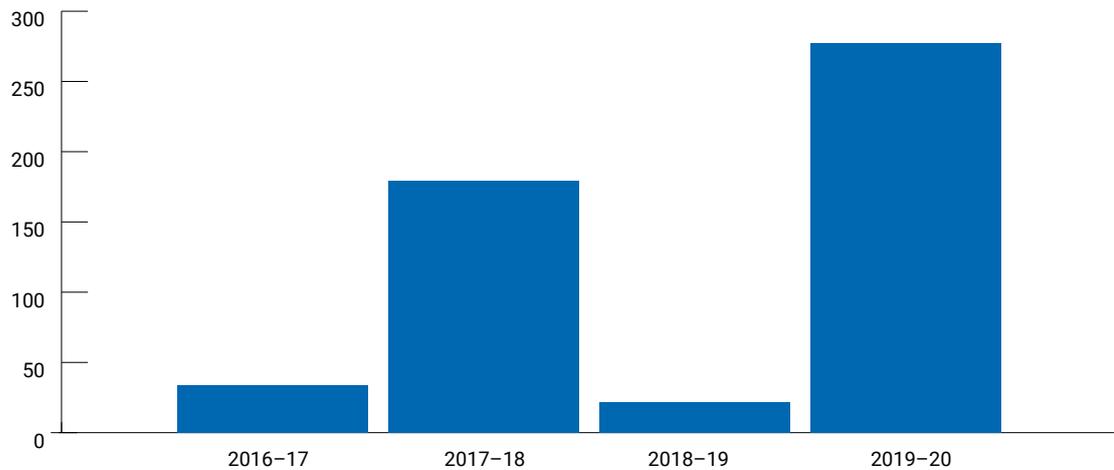
61 Ibid.

62 A rolling lockdown is where the residential units are sequentially secured, that is, not all young detainees are secured at the same time.

63 HRC (n 21) 3.

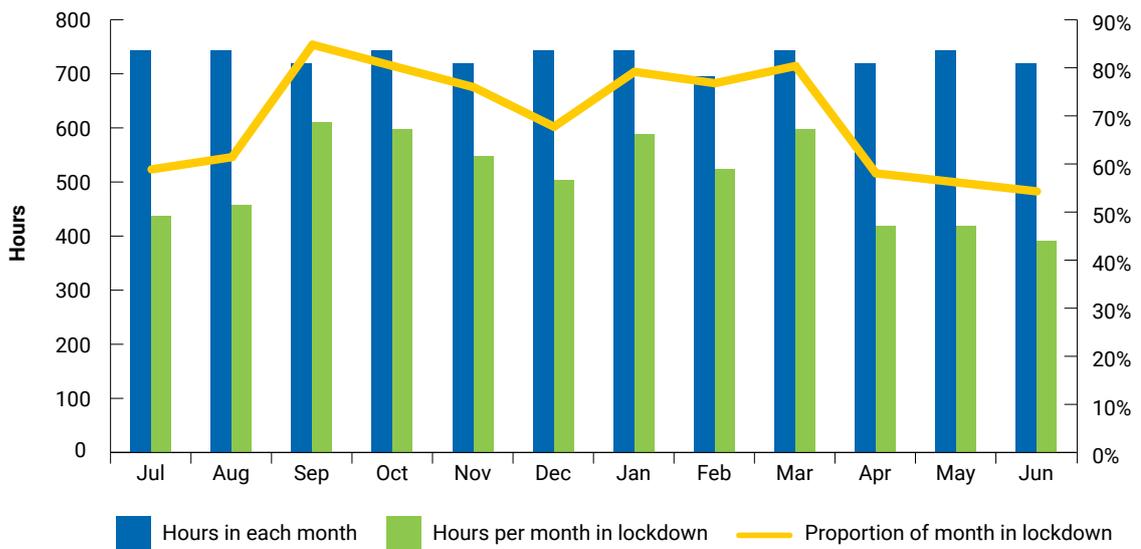
64 Ibid.

Figure 8: Operational lockdowns at Bimberi



Data source: Bimberi Headline Indicators, December 2020.

Figure 9: Use of lockdown as a proportion of hours per month (2019-20)



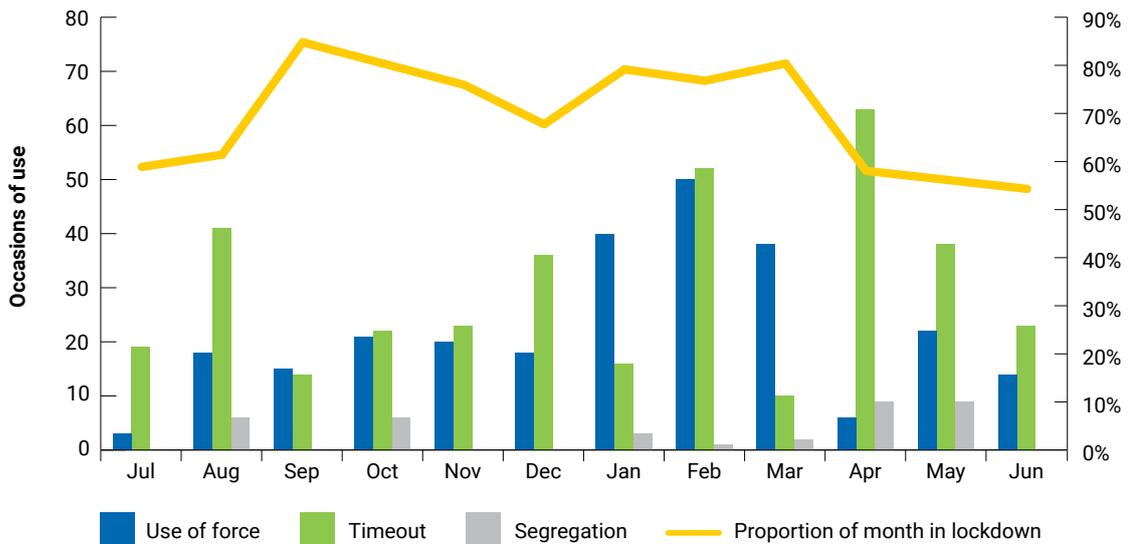
Source: ACT Human Rights Commission, *Annual Report 2019-20*, 68.

The HRC identified that this followed a similar pattern they observed in 2017-18 where the use of operational lockdowns was resolved following staff recruitment between March and May 2018.⁶⁵ Lockdowns attributed to staff absences and insufficient staff speak to poor workforce management and creates significant risks for the operation and culture of Bimberi. We note that CSD has commenced more regular recruitment after the November incident. Ongoing vigilance in this area is important to ensure Bimberi has appropriate staffing levels.

65 Ibid 4.

Concerningly, the HRC identified that throughout the period of rolling lockdowns in 2019–20, there was increased use of force and timeout. In addition, despite attempts to provide ongoing education, at times there was a decrease of up to 75% in young people’s participation in education.⁶⁶ A community organisation that works with the young detainees in Bimberi also noted the impact the lockdowns had on young detainees’ mental health and wellbeing more generally.

Figure 10: Use of force, time out and segregation against lockdown (2019–20)



Source: ACT Human Rights Commission, *Annual Report 2019–20*, 70.

Young detainees advised the PACYPC that they viewed these lockdowns as punishment, and felt it was unfair that they could not attend classes in the education centre or access sport and other activities to the same level as previously.⁶⁷ The expression of this frustration by young detainees and the increased tension caused by the lockdowns could be the cause of the increased use of restrictive practices the HRC observed.

Finding 70:

That operational lockdowns caused by staff shortages have been a significant issue at Bimberi Youth Justice Centre in 2019–20. However, additional recruitment has seen some recent improvement.

Finding 71:

That appropriate workforce planning is required to ensure there is sufficient staffing at Bimberi Youth Justice Centre to avoid long periods of operational lockdown in the future.

66 HRC (n 9) 70.

67 Ibid.

Code lockdowns

The review team found that the operational response to a code⁶⁸ being called is to secure all young detainees in their cabins to allow more staff to respond to the incident. In the interviews, young detainees very strongly expressed that they felt that locking down all young detainees because of an incident caused by one young detainee was unfair. They perceive this as collective punishment, and the effects are exacerbated by their feeling of boredom in their cabins (see section 4.3 for further discussion). Young detainees told us that there is usually a code every day and the lockdowns vary from 10 minutes to hours, depending on the seriousness of the incident.

Lockdowns also disrupt whatever activity young detainees were participating in, including education and visits, as they must return to their units. For young detainees who can only access one or two lessons in the education building, this can result in them missing most of their face-to-face learning for that day. The unpredictability of lockdowns can also contribute to emotional instability in young detainees who have a history of complex trauma.⁶⁹

"If one person pumps a code, we all have to go into our room"

Young detainee

One young detainee explained that there are not enough staff at Bimberi to both respond to a code and to supervise young detainees not involved in the incident, which means all young detainees get locked in their cabin. The solution he suggested was to have a dedicated incident response team. The Operations Manager told review team members that Bimberi has considered this option but believed it would not be feasible in such a small centre. However, they do have designated responding officers on each shift.

Another option that Bimberi has considered is only locking in some units, rather than the whole centre. Some young detainees told us that they had asked Bimberi to consider leaving them locked in their unit, but not secured in their cabin, because they are a low security classification. The Operations Manager explained that if they do not lock in one unit, they believe the other units will complain and potentially cause another code.

The restrictions lockdowns place on the rights of young detainees means that lockdowns must only be used for a legitimate purpose and where there are no less restrictive means available. The review team believes that the safety and security of Bimberi is a legitimate purpose and had some discussions with operational staff that indicate Bimberi has considered some less restrictive options.

However, given the significant impact on the rights of young detainees, the review team would like further consideration by Bimberi of operational responses to codes and, if they are essential, ways to mitigate the impact of code lockdowns on young detainees. For example, Bimberi could consider whether a visit could continue to occur rather than that young detainee having to return to their cabin. Another option could be introducing a program that supports young detainees to cope with lockdowns by teaching them self-care and self-regulation techniques and this could include the provision of a range of materials to assist them when they are secured in their cabins.⁷⁰

Finding 72:

That lockdowns in response to codes have a significant impact on young detainees' daily routine and wellbeing.

68 A radio call alerting staff to an incident such as a medical emergency or an assault.

69 Commission for Children and Young People Victoria (n 20) 82.

70 Ibid 84.

Recommendation 20:

That Bimberi Youth Justice Centre provide an options paper for discussion at the Bimberi Oversight Group on ways to avoid centre-wide operational lockdowns in response to codes, and strategies to mitigate the impact of those lockdowns on young detainees if unavoidable.

Lockdown register

The review team is also concerned about the recording of lockdowns and extended overnight lock-ins. The HRC's review of Bimberi recommended all operational lockdowns, code lockdowns and extended overnight lock-ins be recorded in a lockdown register that is subject to oversight by the OVs and HRC, including the PACYPC.⁷¹ This recommendation was accepted. In the May 2020 progress report on the implementation of the recommendations from that review, the ACT Government stated that they are reviewing the detail of record keeping and that the introduction of CYRIS would allow specific information in relation to lockdowns to be readily available.⁷²

Bimberi advised that they record code lockdowns and extended overnight lock-ins in the Master Control Room log but there are plans to transition the recording of these into CYRIS. This will allow greater oversight by the PACYPC and more detailed interrogation of the data.

Finding 73:

That extended overnight lock-ins and code lockdowns are not currently recorded on CYRIS and so there is no easy way to oversight how often they are occurring.

4.2 Education

The right of children and young people to an education applies equally in Bimberi as in the community. The review team found that young detainees at Bimberi are engaged in a program of education, learning and skill development to meet their individual needs. Education in Bimberi is delivered through the Murrumbidgee School,⁷³ which is delivered by the ACT Education Directorate. Young detainees we spoke to were very positive about education. Many said that they enjoy the more hands-on classes such as woodwork, gardening, music, art and cooking.

At the time of the review, all young detainees in Bimberi were working towards their Year 10 or Year 12 certificate. All young detainees have an Individual Learning Plan that is developed by Murrumbidgee School in collaboration with the young detainee. Murrumbidgee School delivers project-based learning (PBL) to young detainees. PBL is a dynamic, flexible pedagogy that enables schools to deliver a tailored education to complement the needs and interests of students. This is essential in an environment such as Bimberi where the educational levels and engagement in school varies amongst young detainees. The essential elements of PBL promote deeper learning, greater engagement and increased quality of work.⁷⁴ Murrumbidgee School staff reported that since PBL was introduced, young detainees have engaged positively in their education as they have authorship over their learning.

71 HRC (n 11) 70.

72 Stephen-Smith (n 58) 5.

73 Previously called the Murrumbidgee Education and Training Centre.

74 NSW Government, 'Key elements of project-based learning' (29 July 2020)

<https://education.nsw.gov.au/teaching-and-learning/school-learning-environments-and-change/future-focused-learning-and-teaching/project-based-learning-resource-guide/introducing-project-based-learning/Key-elements-of-project-based-learning>.

Finding 74:

That young detainees are engaged in a program of education, learning and skill development designed to meet their individual needs.

Access to education

Staff and young detainees raised concerns about access to education in Bimberi. Where a young detainee has been excluded from the education building, generally due to behavioural issues or risk assessment, they are generally only able to access one education session a day of approximately 45 minutes with a teacher visiting their unit. They are also able to access an 'education pack' which has been prepared by teachers at Murrumbidgee School. At the time of the review, one young detainee had been excluded from attending the education block for three weeks, meaning that he had under five hours of face-to-face learning each week.

To maintain the safety and wellbeing of Murrumbidgee School staff, the review team believes teaching in the accommodation units should not be a supported practice. In addition, young detainees we spoke to did not enjoy learning in their units. In addition, the use of education packs should only ever be a short-term measure.

Feedback from stakeholders identified that current processes delay the return of young detainees to the education block following their exclusion on behavioural grounds. Current re-entry processes, for example, require the Executive Teacher to conduct a meeting with the young detainee prior to them being allowed to return to the education block. Given the broad responsibilities of the Executive Teacher, it is not always possible for them to be available to conduct these meetings. As an alternative, they were working towards all teachers at Murrumbidgee School having the necessary training to facilitate these re-entry meetings for young detainees. This will prevent any unnecessary delay for young detainees' participation in education.

Finding 75:

That where a young detainee has been excluded from education, they are only able to access one face-to-face education session with a teacher each day in their unit.

Photo 13: Vegetable gardens at Bimberi used in horticulture classes



Source: OICS 2020

Finding 76:

That young detainees who have been excluded from attending the education block are able to access education packs prepared by Murrumbidgee School staff.

4.2.1 Behaviour management at education

Behaviour management at Bimberi is discussed in section 2.2. However, Murrumbidgee School also has its own behaviour management strategies. Young detainees have a Positive Behavioural Support Plan which is developed by Murrumbidgee School in collaboration with the young detainee. Where there are concerns for the safety of Murrumbidgee School staff, an Occupational Violence Risk Assessment will be completed for the relevant young detainee by the Occupational Violence team within the Education Directorate.

Discussions with Murrumbidgee School staff and Bimberi operational staff suggest that the behaviour management philosophies of both stakeholders align. Recently, Murrumbidgee School reviewed the tools they use for behaviour management so that it better aligns with that of Bimberi. This had made it possible for young detainees to earn incentive points while they are at education. For example, they introduced 'Student of the Week' which has a prize of 100 incentive points and a certificate from Murrumbidgee School. This has reportedly been well received by young detainees.

4.2.2 Internet access

Young detainees in Bimberi do not have access to the internet. This was identified by a number of stakeholders as an issue in relation to young detainees' education. Teachers at Murrumbidgee School are conducting research for young detainees' projects that they then have to print or put on a USB for young detainees to access at education. Not only is this very time consuming for the teachers, but it is also not allowing young detainees to develop these research skills themselves.

In addition to education, access to the internet could be used as an additional means of maintaining connections to family and community. The AMC currently uses a PrisonPC system that provides detainees access to email, certain documents and 'white-listed' websites.

The review team is aware that some scoping work has been done on establishing a controlled platform, such as Sandbox, in Bimberi. We recommend that this work be progressed as a priority to enhance learning opportunities for young detainees.

Finding 77:

That young detainees do not have access to a restricted internet platform to support their learning.

Recommendation 21:

That the Education and Community Services Directorates establish an appropriate restricted internet platform to support the education of young detainees, with a plan for implementation developed within six months of the tabling of the government response to this report.

4.2.3 Certification

The current certification process for young detainees obtaining their Year 10 and Year 12 certificates relies on relationships with other ACT government schools. At the time of the review, we were informed that negotiations were currently taking place to get a local high school to complete the assessments required for Year 10 and Year 12 certificates for 2020. This is not a viable long-term option as it is dependent on the goodwill of a small number of principals.

Murrumbidgee School should be supported by the Education Directorate to formalise the systems and processes to enable Year 10 and Year 12 certification to be awarded through Murrumbidgee School. The review team was advised that it is possible to issue certificates without the name of the school on them.

Finding 78:

That there is no long-term, sustainable process for Year 10 and Year 12 certification in Bimberi Youth Justice Centre.

Recommendation 22:

That the Education Directorate make formal arrangements around Year 10 and Year 12 certification for young detainees completing their education through Murrumbidgee School.

4.3 Recreation and activities

As a small centre, Bimberi has the capacity to provide individualised recreation programs and activities for young detainees. The recreation services and activities delivered are adjusted according to the number of young detainees residing in the centre and are coordinated primarily by the Sport and Recreation Officer and the Programs and Services Manager.

To assist in the delivery of recreation services and activities, several external organisations visit Bimberi. Young detainees are also able to participate in cooking programs, a barista program, music and gardening/horticulture (some of which are delivered through Murrumbidgee School). Feedback during the review, including from young detainees, was that these programs are well received.

Photo 14: Gym facilities at Bimberi



Source: OICS 2020

However, young detainees told the review team that they would like a greater selection and variation of activities in Bimberi. They said this particularly in relation to what they can do in their cabins and units. One young detainee said that ‘there is not enough to do’ and many others said that they were ‘bored’. Two young detainees suggested that having something as simple as a small basketball hoop in their cabin would help break the boredom they experience when they are locked in. Young detainees also told us that staff shortages at Bimberi impact on activities – ‘when there are not enough staff, this limits the activities we can do’.

The development of further activities, including afternoon and holiday activities, should include consultation with young detainees. This is discussed further in section 3.1.4.

The review team also found that the classification system and the management of conflicts between young detainees is restricting young detainees’ participation in activities. This is discussed further in sections 2.2.3 and 4.1.1.

Finding 79:

Young detainees would like more activities to undertake in their cabins and units, particularly during lock-in times.

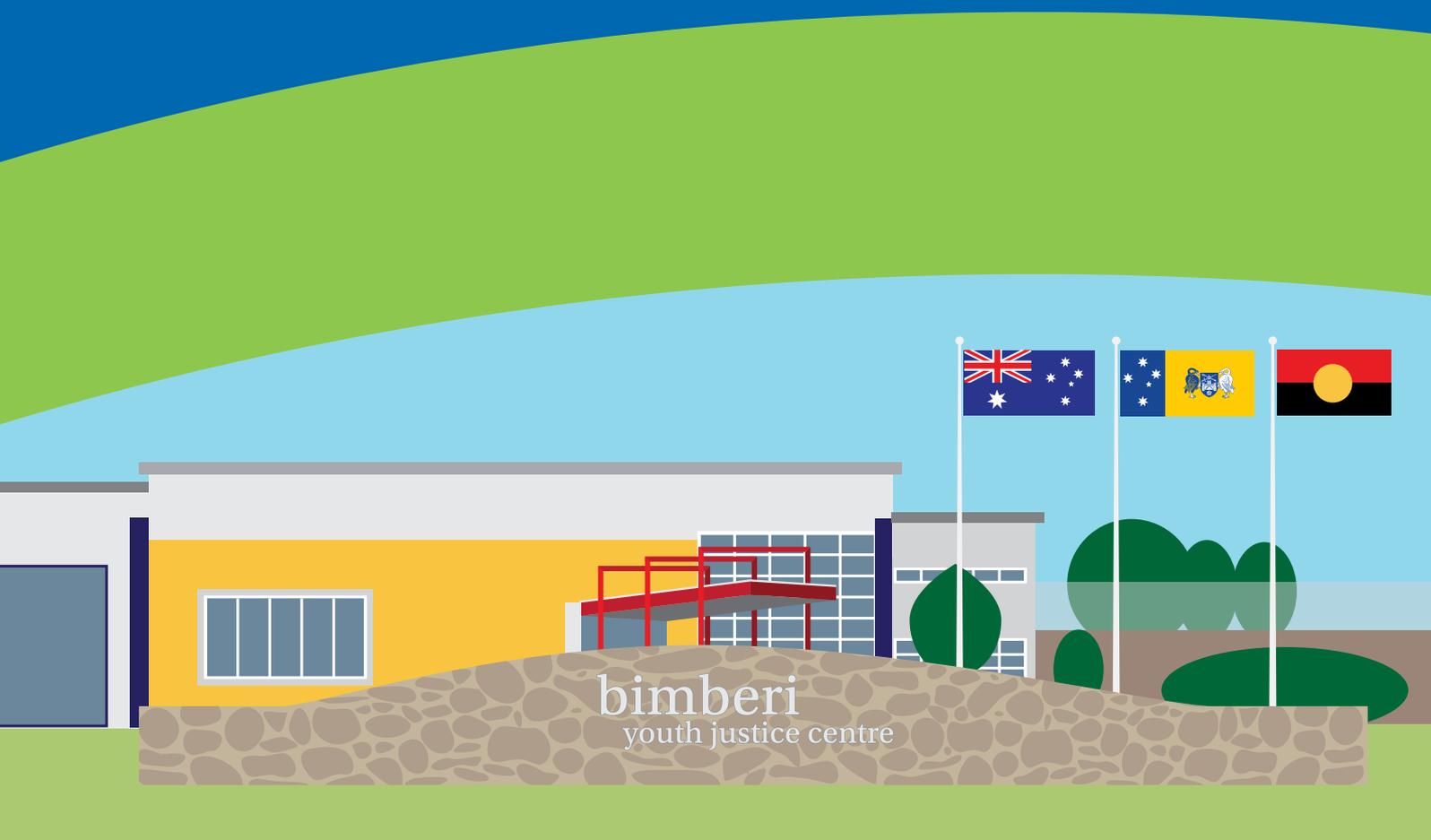
Photos 15-18: Recreational facilities available at Bimberi



Source: OICS 2020 and CSD 2021

CHAPTER 5

Rehabilitation and preparation for release



5. Rehabilitation and preparation for release

5.1 Contact with the outside world

Overall, the review team found that Bimberi does encourage young detainees to maintain or re-establish positive relationships with family, friends and community agencies while in Bimberi and staff recognise the benefits this has on young detainees' rehabilitation and reintegration. Young detainees can maintain frequent contact with approved family, friends and other community members through face-to-face visits, monitored phone calls and mail.

Bimberi has a dedicated Family Engagement Officer role that is responsible for arranging contact between young detainees and important people in their life, and keeping families informed. This is an Aboriginal-identified position, though the position-holder works with all young detainees. Unfortunately, this role was vacant at the time of the review and was still not filled at the start of February 2021.

Finding 80:

That young detainees have opportunities to regularly contact approved family, friends and other community members.

5.1.1 Visits

The review team found that young detainees do have regular access to visits. However, it can be challenging for some family and friends to travel to Bimberi and Bimberi does not offer video call technology which could assist in increasing access to visits.

Young detainees are entitled to at least one visit of one hour from a family member or significant person under the CYP Act.⁷⁵ Visit times are available four days a week, including weekends and evenings. The low numbers of young detainees means that Bimberi can be flexible with the number of visits a young detainee can have while still ensuring equitable access.

Some staff and young detainees told us that some families experience difficulties with transport to Bimberi, limiting the number of visits they can make. While there is some support provided by the Bimberi Family Engagement Officer, it is important that these supports are targeted and effective.

Some young detainees suggested that Bimberi should consider introducing visits using video calls so that their families do not have to travel. The use of video call technology has emerged as an innovative tool in correctional facilities to enhance contact with families and friends, especially during the COVID-19 pandemic. For example, in March 2020, the AMC commenced using the Zoom platform on iPads for social visits and has found it to be successful.

⁷⁵ Children and Young People Act 2008, s 177(2).

Bimberi currently has an AVL setup in the visits centre for court proceedings. The review team was advised that a second AVL has been ordered to be put in the Client Services building to enhance the centre's capacity to use AVL for professional visits. We recommend that similar video call technology be introduced at Bimberi to enable young detainees to video call their approved family members and friends.

Finding 81:

That there is currently no video call technology in Bimberi Youth Justice Centre that young detainees can use to contact their families and friends.

Recommendation 23:

That Bimberi Youth Justice Centre introduce video call technology for social visits.

Visits centre

Photo 19: Bimberi visits centre



Source: OICS 2020

The review team found that the visits centre is a clean and friendly space. There is a small kitchen area where visitors can access tea and coffee. The outside space has a playground. There is also a barbeque space outside, and young detainees can use their incentive points to purchase a barbeque pack to share with their visitors.

Unfortunately, due to COVID-19 restrictions, at the time of the review all visits were occurring in the non-contact visits rooms, so the review team could not observe the visits centre in use.

Photo 20: Playground at Bimberi visits centre



Source: OICS 2020

Non-contact visits

The visits centre has two non-contact visits rooms where the young detainee and visitors are physically separated by a polycarbonate screen. These rooms are used in situations such as where there has recently been attempts from that visitor to pass contraband to the young detainee.

The non-contact rooms have been used for all social visits during the COVID-19 pandemic. In the interviews, young detainees who had visits said that they found this difficult and would like to return to normal visits as soon as possible. Their main issues were that only two people can visit them at once and that sitting for 45 minutes in the small room is difficult for children (for example, younger siblings) that visit them.

The rooms are reasonably soundproof, providing privacy to the young detainee and their visitors. Young people or visitors with a hearing impairment or sensory issues may have issues with the environment, and Bimberi staff should be mindful if any reasonable adjustments are required for visits (for example, allowing contact visits with greater supervision instead).

There are no CCTV cameras in the non-contact rooms. However, there are large observation windows between the non-contact rooms and the officer station, as well as windows in the doors. The review team was told that this is to allow youth detention officers to observe visits if necessary. In practice, this would only apply to the first non-contact room situated next to the staff station because there is no line of sight into the next non-contact room.

Photo 21: Non-contact visits room at Bimberi

Source: OICS 2020

5.1.2 Phone calls

Under section 174 of the CYP Act, young detainees must have access to a phone call on admission and at least two phone calls each week to a family member or significant person. The *Visits, Phone Calls and Correspondence Policy and Procedures* increases this to four phone calls each week. Young detainees do not pay for their phone calls.

At Bimberi each young detainee has their four free phone calls put on their account on Sundays and they can purchase up to 15 more phone calls using their incentive points. Each call costs 20 points, which is equivalent to \$1.00. Phone calls are 10 minutes in duration and young detainees must wait 30 minutes before they can make another call. Some young detainees told us that they would like longer phone calls and that limiting the number of phone calls they can have is restricting their contact with their families.

It is the review team's opinion that it is inappropriate to include phone calls in the incentive scheme. For a young detainee, not being able to call their family more than four times a week is effectively a punishment for not behaving well enough to earn their incentive points. As the NSW Inspector of Custodial Services noted, good youth justice practice should never use family contact as part of a behaviour management program.⁷⁶ This is consistent with the 1999 *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions* which recommended that contact with family and friends 'should not be apportioned according to behaviour'.⁷⁷

Photo 22: Phone booth in accommodation unit at Bimberi

Source: OICS 2020

⁷⁶ NSW Inspector of Custodial Services, *Making connections: Providing family and community support to young people in custody* (June 2015) 18.

⁷⁷ Leena Forde AC, *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions* (31 May 1999), 215.

Finding 82:

That the inclusion of phone calls in the incentive scheme is inappropriate.

Recommendation 24:

That Bimberi Youth Justice Centre remove phone calls from the incentive scheme to ensure that contact with family is not apportioned according to behaviour. This should not result in a reduction to the current maximum number of calls young detainees can make, that is, 19 phone calls per week.

5.1.3 Contact with lawyers and remote court attendance

Young detainees must be provided with reasonable opportunities, time and facilities to be visited by and to communicate in private with their legal representatives. Young detainees we interviewed told us that they can make phone calls to their lawyer from Bimberi and get up to 30 minutes to talk to them.

Members of the review team spoke with staff at the ALS and Legal Aid ACT. Both stakeholders emphasised the importance of being able to communicate with their clients prior to court to get instructions and after court to explain the outcome of the proceedings. Currently, young detainees appearing in court by AVL from Bimberi often do not get to speak to their solicitor before court because there is no system in place at Bimberi to get the young detainee on the phone to the solicitor. The solicitor must then ask for a court adjournment to seek instructions from their client over the AVL to the court room.

Finding 83:

That it is difficult for young detainees' lawyers to contact their clients in Bimberi Youth Justice Centre before and after court attendances by AVL.

Young detainees understanding of court when attending by AVL

Court attendance by AVL removes the need for young detainees to be transferred to court and spend a large part of their day in the court cells and is preferable for some appearances. However, it is vital that the young detainee can understand what is occurring in court. To assist with this, Bimberi commenced the practice of having a Bimberi staff member in the room with the young detainee to explain the court procedures if needed.

Photo 23: AVL facility at Bimberi used for court attendance

Source: OICS 2020

Legal service providers informed us that this has created serious issues. One young detainee told us that they are given the choice of having someone in the room with them and they choose not to because court is “personal”. However, from the review team’s discussions with Legal Aid ACT and the ALS, it appears the young detainee’s lawyer is not part of this decision-making.

One example we were told was of a bail hearing where the young detainee asked for clarification on something the Magistrate had said. The Bimberi staff member in the room with the young detainee responded inappropriately and with the incorrect advice. It was also a surprise to those in court that there was someone in the room with the young detainee as the Bimberi staff member was not visible on the camera. We note that matters concerning young detainees are heard in closed court, meaning it is not open to the public.

In October 2019, it was suggested at the Bimberi Oversight Group meeting that a framework be developed in conjunction with legal service providers in the ACT about how to support young detainees before, during and after AVL court appearances.⁷⁸ This has not yet occurred.

Finding 84:

That it is inappropriate for Bimberi Youth Justice Centre staff to be in the room with a young detainee attending court by audio-visual link without the Magistrate or Judge knowing.

Recommendation 25:

That Bimberi Youth Justice Centre develop a framework in conjunction with legal service providers in the ACT, ACT court staff and relevant oversight entities about how to support young detainees before, during and after court appearances by audio-visual link.

⁷⁸ Bimberi Oversight Group, *Minutes of meeting held on 28 October 2018*.

5.2 Case management

5.2.1 Role of case managers

CYPS encompasses both child protection and youth justice services. Since 2015, CYPS have operated under a single case management model. In 2018–19, 60% of young people under youth justice supervision, either in the community or in Bimberi, also received child protection services in the five years from 1 July 2014 to 30 June 2019.⁷⁹ This means that for young people in both systems, they have their child protection and youth justice matters overseen by the same case manager. For young detainees, their case manager is offsite and visits them at Bimberi once a week or once a fortnight.

CSD advised that case managers prepare court reports for young detainees, complete risk assessments and deliver the Changing Habits and Reaching Targets program to young detainees who have entered guilty pleas or have been sentenced.⁸⁰ However, there is no notified policy or procedure on throughcare, programs or re-integration. Therefore, there is limited public information on the role of case managers for young detainees.

Finding 85:

That there is no notified policy on rehabilitation and preparation for release for young detainees.

5.2.2 Assessment and case plans

The review team found that there are some assessment procedures in place to identify the risks and needs of each young detainee. Case managers complete the Youth Level of Service/Case Management Inventory (YLS/CMI) to inform the development of a young detainee's case plan. Young detainees who are also in out-of-home care also have a therapeutic needs assessment in place.

All young detainees at Bimberi have a case plan developed by their case manager. They have a single case plan for both their child protection and youth justice matters. Case planning is reviewed in the Client Services Meetings (discussed at section 2.5.2) with each young detainee reviewed within a week of being admitted to Bimberi and then at least on a four-weekly basis.

The review team found limited Aboriginal and Torres Strait Islander input into case plans and the review of case plans. When the Family Engagement Officer position is filled, this should provide more Aboriginal and Torres Strait Islander representation at the Client Services Meetings. However, as far as the review team is aware, there are no Aboriginal and Torres Strait Islander case managers.

It was raised with the review team that external legal services such as the ALS and Legal Aid ACT are not involved in the case management discussions pertaining to their clients. This has resulted in occasions of services being doubled up. For example, alcohol and drug counsellors arranged by both Bimberi and the cultural liaison team at Legal Aid ACT for the same young detainee. Whilst the review team did not investigate how widespread this issue is, it is something that could easily be resolved through communication between a young detainee's case manager and legal service provider.

⁷⁹ Australian Institute of Health and Welfare, *Young people under youth justice supervision and in child protection 2018–19* (15 October 2020) 10.

⁸⁰ CSD (n 7) 23.

5.2.3 Young detainees' relationship with case managers

The review team identified that the relationship between young detainees and their case managers is a barrier to service delivery. One issue was that most young detainees we interviewed explained the role of their case manager as someone who helps them with their legal matters and who helps them when they are released. Two young detainees did state that their case manager asks about what they want when they leave and helps to make sure they have a place to go when they leave. However, most of the others did not identify their case manager as someone who helps them with their broader rehabilitation needs and planning for release.

Another issue was the rapport between young detainees and their case managers. It is very important for case managers to build a relationship with a young person as this maximises their ability to identify and help facilitate appropriate supports as well as treating critical criminogenic needs. One young detainee described a particularly poor relationship with their case manager and said that they had tried to get different one, but this was unsuccessful. Part of this issue may be that case managers are not onsite, so to young detainees they are just someone who visits once a week or once a fortnight.

Finding 86:

That, generally, young detainees do not see their case manager as someone who assists with their rehabilitation and reintegration needs when at Bimberi Youth Justice Centre.

5.2.4 Transfer to the Alexander Maconochie Centre

During this review there was one young detainee who was likely to receive a sentence that meant he would have to serve some time in an adult prison. The review team was pleased to note that appropriate practices appear to be in place regarding Bimberi's planning for young people who will need to be transferred to the AMC due to their age and length of their sentence. As a courtesy, Bimberi notifies the PACYPC when they are considering transferring a young detainee to the AMC so that they can be involved in the decision. This is an important safeguard, and the review team were pleased to note early engagement between Bimberi and the PACYPC. The review team is of the view that consultation with the PACYPC should also be a requirement under the CYP Act.

5.3 Reintegration planning and release

The review standard that young detainees are helped to prepare for release through a whole of centre approach was found to be partially met. The review team acknowledges that it is very challenging to conduct reintegration planning when the vast majority of young detainees are on remand and young detainees typically have a short stay at Bimberi. However, there is room for improvement in this area.

The ACT Blueprint for Youth Justice Taskforce identified Throughcare as one of the focus areas that should be considered for further action.⁸¹ The 2020 Parliamentary Agreement made a commitment to 'implement a Youth Justice Throughcare program to be delivered in partnership with community organisations'.⁸² In October 2019, the Bimberi Oversight Group discussed concerns about transition planning for young detainees. In December 2019, CSD advised the Oversight Group that draft terms of reference for a Throughcare Project would be developed and provided to the group to discuss. At the time of writing, a preliminary meeting between the PA and Bimberi to discuss this had occurred, but no substantial work had been commenced.

Throughcare is an essential mechanism to support young detainees to connect with the community in preparation for release and can contribute to preventing reoffending. It can include help with accommodation, employment, education, health and reconnection to family and community.⁸³ Importantly, it includes continued support after release. Some aspects of this are already met by case managers and the Transitions Officer. However, the review team identified some areas that need to be improved, such as ensuring young detainees eligible for an NDIS package are supported, and ensuring young detainees have access to appropriate community-based health services. Overall, the review team found that Bimberi lacks a comprehensive and coordinated throughcare approach.

Finding 87:

That throughcare has been identified by the ACT Government, Community Services Directorate and oversight agencies as an area for improvement, but limited progress has been made.

5.3.1 Transition to education or work in the community

Murrumbidgee School has a dedicated Transitions Officer who is responsible for supporting young detainees' transition into education or work in the community. The Transitions Officer develops a plan for each young detainee which details the arrangements for them when they are back in the community, for example, which school they are enrolled in, what further education they would like to undertake or what areas of employment they are interested in. The Transitions Officer has established links with schools, the community and with industry to find opportunities for young detainees.

Classwork at Murrumbidgee School and programs, such as White Card and Asbestos Training and the barista program, also support the transition of young detainees back to the community. Two young detainees we interviewed told us that at school they are preparing a resume. The Transitions Officer can also arrange work experience in the community for young detainees with a low enough classification.

It would be beneficial for young detainees transitioning to a school in the community to meet a teacher or principal before they are released from Bimberi. While there have been some examples of where this has occurred in the past, there is no ongoing system to embed this as good practice.

Stakeholders raised that a lack of appropriate information sharing between Bimberi, case managers and the Transitions Officer has created difficulties, for example, inappropriate work experience placements in the community being secured. This is discussed in more detail in section 2.5.2.

81 ACT Community Services Directorate, *Blueprint for Youth Justice Taskforce: Final Report* (May 2019).

82 *Parliamentary and Governing Agreement: 10th Legislative Assembly Australian Capital Territory*.

83 For example, the North Australia Aboriginal Justice Agency runs a Throughcare Program for both adult and young detainees that includes support in these areas. See: <https://www.naaja.org.au/law-and-justice/throughcare/>.

Finding 88:

That the Transitions Officer role in Murrumbidgee School is crucial to young detainees' transition into work or education in the community.

Finding 89:

That better information flow between Bimberi Youth Justice Centre, case managers and the Transitions Officer would enhance opportunities for the successful transition of young detainees into school or work in the community.

5.3.2 Transfer of health care

The review standard that young detainees with continuing health and substance abuse needs are prepared and helped to access services in the community before their release was found not to be met. The review team heard that young detainees who required medication often had little understanding of what the medication was for and the importance of continuing medication on release. There is also a lack of in-reach prior to release to engage young detainees in planning for the transfer of their health care. This could be addressed in a throughcare program that includes helping young detainees to get support for their health needs when released.

The review team notes that there are some challenges in the ACT that also impact on this, such as the lack of availability of GP services with youth expertise and the lack of available child and adolescent mental health services in Canberra.

Finding 90:

That there is insufficient throughcare in place to ensure that the ongoing health needs of young detainees exiting Bimberi are met.

5.3.3 Bendora Transition Unit

The Bendora Transition Unit was developed in response to the 2011 HRC review of the youth justice system.⁸⁴ It provided young detainees with independent living skills, such as preparing meals, and provided them with opportunities for regular leave to participate in external education opportunities, work experience and apprenticeships.⁸⁵ However, this program was decommissioned in 2016 when the numbers of young detainees at Bimberi decreased significantly and it has not been re-opened.⁸⁶ When the review team was onsite, the accommodation unit itself was being used, but only because another unit was undergoing maintenance. The young detainees in that unit told us that they were not allowed to cook any of their own meals despite the facilities being available.

84 HRC (n 11) 92.

85 Ibid.

86 Ibid.

In their 2019 review of Bimberi, the HRC identified systemic throughcare and a lack of pre-release preparation and post-release support as a major issue. They recommended that the ACT government consider reopening the Bendora Transition Unit or that it implements a systemic program of throughcare at Bimberi similar to that previously offered through the Bendora Unit.⁸⁷ The ACT Government agreed to this recommendation, but from the update provided in May 2020 it appeared no progress had been made.

Finding 91:

That the closure of the Bendora Transition Unit leaves young detainees with limited opportunities to develop independence and life skills that assist them on release.

Recommendation 26:

That the Community Services Directorate take urgent action to implement recommendation 14 in the ACT Human Rights Commission's 2019 *Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre* about implementing a systemic program of throughcare at Bimberi. This should be developed jointly with ACT Health and the Education Directorate.

5.4 Programs

The review team found that there are not many therapeutic programs⁸⁸ offered to young detainees at Bimberi. Instead, education and recreational activities are relied on to provide therapeutic outcomes. While this is very important, it is also key that there is formalised teaching of these skills to reinforce this experiential learning.

We appreciate that with a small population and usually short stays at Bimberi it is difficult to offer therapeutic programs, especially group programs. Bimberi relies on external service providers for many programs, and it is difficult for them to commit to coming to Bimberi when it is not clear when young detainees who will need their services will be in Bimberi or whether there will be a consistent group of participants for their program. In addition, as all young detainees are engaged in school during the day, programs need to be delivered after school, on weekends and in school holidays. CSD advised that Bimberi has found it difficult to find services who are willing to provide programs in these hours.⁸⁹ They also advised that they are exploring opportunities with Murrumbidgee School to joint deliver programs that might be able to occur in school hours.

Bimberi primarily aims to provide a range of services that they can then tailor to suit the individual needs of each young detainee, rather than providing specific treatment programs. Some modified programs can and have been delivered at Bimberi. For example, PCYC presented a modified version of their LoveBites program. This is an educational program that focuses on the development of respectful relationships and violence prevention for 15 to 17-year-olds. Young detainees also told us that they enjoy the sports program delivered by Alan Tongue during the school holidays which also teaches them about respectful relationships, domestic violence and decision making.

87 Ibid 94.

88 Programs not directed to specifically addressing offending behaviour e.g. life skills programs, health education.

89 ACT Community Services Directorate, Response to OICS request for information (15 September 2020) 42.

The review team also identified that the delivery of therapeutic programs is affected by information sharing and cooperation issues between Directorates. Staff in each Directorate have different areas of expertise and the delivery of therapeutic opportunities for young detainees could greatly benefit from the integration of these multi-disciplinary perspectives. This is discussed in more detail in section 2.5.2.

Recommendation 27:

That the Community Services Directorate review the programs and services available in Bimberi Youth Justice Centre to identify the current therapeutic outcomes for young detainees and the gaps that need to be addressed.

5.4.1 Pro-social recreation and social supports

As discussed in section 4.3, there are a number of recreational activities provided to young detainees at Bimberi, including through visiting services. However, the review team found that there is a lack of programs addressing the regulatory needs of young detainees.

Many young detainees have a history of trauma and this can alter mental processes associated with cognitive and affective emotional functioning (for example, self-regulation, impulse control, perspective taking and empathy).⁹⁰ In addition, the core criminogenic need of antisocial personality pattern is characterised by impulsivity, pleasure seeking, restlessness, aggressiveness and irritability. With this in mind, it is important that there are adequate activities and programs that build the physiological and emotional regulatory capacity of young detainees at Bimberi.

The Principal Practitioner is well-placed to introduce such programs and has already begun to do so. For example, Client Services have recently introduced Brain Gym which teaches young detainees about mindfulness practices, and mindfulness beading which young detainees can do in their units. These were reportedly well received by young detainees.

Finding 92:

That recently some programs that build young detainees' capacity to self-regulate have been introduced, but more work could be done in this area.

5.4.2 Programs to address criminogenic needs

CYPS offers the evidence-based program Changing Habits and Reaching Targets (CHART). This cognitive-behavioural program targets a young detainee's identified criminogenic needs to reduce their risk of reoffending. In accordance with the presumption of innocence, this program is only available to sentenced young detainees. Case managers are responsible for delivering CHART, so it can be undertaken whether the young person is in Bimberi or in the community. The case management team expressed that their preference is to deliver CHART in community, but if a young detainee was serving a long sentence, they would look to complete it in Bimberi.

90 Diana Kenny, 'The adolescent brain: implications for understanding young offenders' (2016) 28(3) *Judicial Officers Bulletin* 23.

Case managers aim to deliver CHART weekly to keep momentum, though scheduling time to attend Bimberi impacts delivery. The case management team also said that overseeing child protection matters for that young detainee will take priority over delivering CHART. During 2019–20, 15 young people commenced and/or completed CHART.

The most common offence committed by young people in the ACT in 2019–20 was 'Acts Intended to Cause Injury' (for example, serious assault and common assault).⁹¹ The review team found that the core criminogenic needs relating to violence are not being adequately addressed. For example, CYPS do not currently offer programs such as Anger Regulation Training which is common in other jurisdictions. While CYPS and Bimberi have said that they hope to increase their portfolio of therapeutic interventions, this remains an outstanding service delivery need.

Finding 93:

That the core criminogenic needs relating to violence are not being adequately addressed through programs in Bimberi Youth Justice Centre.

⁹¹ 24% of offences were acts intended to cause injury. Australian Bureau of Statistics, *Recorded Crime – Offenders* (11 February 2021) Table 20.

Appendices

Appendix 1: Review methodology

As the first whole of centre review of a youth detention centre conducted by OICS, this review involved significant preparatory work. This began prior to our oversight of Bimberi commencing in December 2019. In 2019, OICS commenced drafting the ACT Standards for Youth Detention Places. Consultation on the standards occurred from April to July 2020 and, after incorporating stakeholder feedback, an interim version was published on our website in September 2020. The standards will be reviewed after the completion of this Healthy Centre Review and a final version produced.

Consultation with other oversight bodies

In February 2020, the Assistant Inspector travelled to Brisbane to meet with oversight bodies of youth detention in Queensland. She met with staff at the Queensland Office of the Public Guardian, the Queensland Youth Detention Inspectorate and the Queensland Human Rights Commission. The Assistant Inspector also had a tour of Brisbane Youth Detention Centre. This assisted OICS to develop the methodology for this review, including considering methods of engaging with young detainees.

We also drew on the expertise of youth detention inspectorates in South Australia and Western Australia. The South Australia Training Centre Visitor Unit provided excellent guidance to OICS, including sharing the methodology they used for their first inspection of Kurlana Tapa Youth Justice Centre. The Western Australia Office of the Inspector of Custodial Services also shared documents that helped OICS develop our methodology for this review.

In the ACT, OICS joined the Bimberi Oversight Group in February 2019 which helped to build our knowledge of Bimberi while planning for the review. This group meets every two months and has members from CSD, Murrumbidgee School, JHS and oversight agencies.

Data and information gathering

In July 2020, OICS requested a significant amount of data and information from CSD. We also requested data from the Education Directorate and Justice Health Services. Each Directorate provided thorough information in a timely manner. CSD also provided a written submission to the review.

Community consultation

On 31 August 2020, ACT Council of Social Service hosted a forum for community organisations to provide input to the review. Attendees were from a variety of organisations who provide services in Bimberi or services to young people before they enter or after they exit Bimberi.

We held bilateral meetings with other key stakeholders in the legal, academic and community sectors. We also received a written submission from the ACT Human Rights Commission.

Staff survey

We conducted a survey of staff members from CSD, Murrumbidgee School and JHS who work at Bimberi. The questions for this survey were adapted from the survey OICS used for the 2019 Healthy Prison Review of the AMC. The survey was anonymous and only OICS could access the responses.

The survey was distributed using SurveyGismo, with staff members sent a link by email. The survey was open from 3 August 2020 to 25 September 2020. The survey was open for eight weeks so that almost all Bimberi staff members would have the opportunity to complete it during night shift. Reminder emails were sent periodically.

The survey was sent to 114 staff members, with 69 completing or partially completing the survey. This gave us a response rate of 61%. A significant number of staff provided open text comments.

Interviews with young detainees

The Deputy Inspector and Assistant Inspector conducted interviews with young detainees at Bimberi over three days in late September 2020. They interviewed all 10 young detainees who were at Bimberi at that time. All were male and were between 16 and 18 years old. Their current period in Bimberi ranged from five days to 18 months, with a median of four months. The Deputy Inspector and Assistant Inspector returned to Bimberi on later occasions to interview two young women in Bimberi.

The interviews were held without anyone else present and began with an explanation of the review and how their information would be handled information. Young detainees were taken through a consent form and asked if they would like to have a support person present. All participation from young detainees was voluntary.

Interviews were conducted relatively informally, and questions were asked under each of the four principles of the healthy centre test. The length of interviews ranged from 30 minutes to 1 hour and 30 minutes. Young detainees were very open in their interviews and their input to this review was invaluable.

The review team

Experts in various fields were brought together for the onsite component of the review. The full team comprised of:

- Rebecca Minty, Deputy ACT Inspector of Correctional Services (review director)
- Holly Fredericksen, Assistant ACT Inspector of Correctional Services (review manager and lead report author)
- Neil McAllister, ACT Inspector of Correctional Services
- Brendan Church, extensive experience working with vulnerable individuals and families, including Aboriginal and Torres Strait Islander peoples
- Dr Danielle Perks, psychologist specialising in services for children and young people in youth justice and child protection
- Bonnie Millen, disability expert
- Craig Gear, prison and youth detention centre health expert

Under section 18(2) of the ICS Act, the Inspector is required to 'consult with, or use staff, suitable to the cultural background or vulnerability' of young detainees involved in the review. Brendan Church is an Aboriginal man with significant experience working with Canberra's Aboriginal and Torres Strait Islander community, including as a former member of the Aboriginal and Torres Strait Islander Elected Body for the Law and Justice Portfolio. In recognition of the high rates of disability among young detainees, we engaged Bonnie Millen who is a disability advocate and someone with lived experience of disability.

Onsite component

Most of the review team was onsite at Bimberi from 11 to 15 October 2020. Our health expert was onsite on 18 November 2020.⁹² Evidence was gathered by the review team during:

- Bilateral meetings
- Mock admission and induction
- Inspections of spatial areas
- Attending morning briefing
- A tour of the centre conducted by a young detainee
- Lunch with young detainees
- A focus group with Unit Managers and Team Leaders.

Further documents and information were also requested during the onsite component.

Triangulation of evidence

Team members were required to prepare evidentiary notes and analytical notes, the latter being conclusions and observations based on the evidence obtained. Wherever possible, analytical notes were to be substantiated by three sources (triangulation) of evidence, such as interviews, observations, data from CSD, staff survey etc.

Triangulation is not always possible when dealing with, for example, young detainees' opinions about the centre. In such cases, the review team refrained from making any definitive judgments but rather noted those matters.

⁹² Due to COVID-19 restrictions, our health expert was unable to travel to the ACT in October.

Appendix 2: Select staff survey responses

Table A: Bimberi staff perceptions on staffing levels (Bimberi staff survey respondents only)

Do you think there are enough staff to provide for the safety and security of:		
	Young people (n=42)	Staff members (n=41)
Yes	35.7%	31.7%
No	52.4%	58.5%
Unsure	11.9%	9.8%

Table B: Time working at Bimberi (Bimberi staff survey respondents)

Length of time working at Bimberi	Youth detention officers (n=33)	All staff (n=60)
Up to 1 year	45.5%	40.0%
1 to 5 years	27.3%	31.7%
Over 5 years	27.3%	28.3%

Table C: Staff age profile (Bimberi staff survey respondents only)

Age	Youth detention officers (n=32)	All staff (n=59)
21–29	21.9%	18.6%
30–39	31.3%	30.5%
40–49	43.8%	39.0%
50–59	3.1%	10.2%
60+	-	1.7%

Table D: Staff gender profile (Bimberi staff survey respondents only)

Gender	Youth detention officers (n=33)	All staff (n=60)
Male	57.6%	48.3%
Female	42.4%	50.0%
Not specified	-	1.7%

Table E: Youth detention officers' views on training (n=33)

	Do you feel adequately trained in the following areas?	
	Yes (%)	No (%)
Use of force	90.9	9.1
Use of restraints	90.9	9.1
Use of the disciplinary process	81.8	18.2
Searching procedures	87.9	12.1
De-escalation	78.8	21.2

Table F: All staff views on training

	Responses (n=)	Do you feel adequately trained in the following areas?	
		Yes (%)	No (%)
Awareness of young people's particular needs (e.g. relating to disability, Indigenous status, mental health, culturally and linguistically diverse backgrounds)	55	83.6	16.4
Staff self-care, such as dealing with stress	59	55.9	44.1
Management of young people with drug issues	56	60.7	39.3
Management of young people with mental health issues	55	58.2	41.8
CPR/First Aid	60	93.3	6.7
Emergency response: fire, natural disaster	59	86.4	13.6
Emergency response: loss of control	58	65.5	34.5
Occupational Health and Safety	58	84.5	15.5
Suicide prevention	55	83.6	16.4
Case management	52	61.5	38.5
Mandatory reporting	55	78.2	21.8
Trauma-informed and youth-responsive practices	54	77.8	22.2

