

25 May 2016

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

2nd Floor Old Admiralty Towers
68 The Esplanade
Darwin

Postal Address
GPO Box 3196
DARWIN NT0801

T 08 8935 7465
F 08 8935 7461
E mark.payne@nt.gov.au

File Ref: DCSDOC/4426

Via email: megan.mitchell@humanrights.gov.au

Dear Ms. Mitchell

**Re: OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE (OPCAT) IN
THE CONTEXT OF YOUTH JUSTICE DETENTION CENTRES**

Thank you for your letter dated 22 March 2016 addressed to Ms. Amanda Nobbs-Carcuro in her capacity as the A/Executive Director Correctional Programs and Services (including Youth Justice) regarding OPCAT in the context of youth detention in the Northern Territory.

Please find attached the Department of Correctional Services (NTDCS) responses to the questions you raised including supporting documentation where applicable. I trust the responses are satisfactory and provide you the relevant information and context you require.



If you require any further information please do not hesitate to contact Ms. Nobbs-Carcuro on telephone 08 8935 7476 or email amanda.nobbs-carcuro@nt.gov.au


Yours sincerely



MARK PAYNE
COMMISSIONER

Department of Correctional Services response to Optional Protocol to the Convention against Torture in Youth Detention Centres


No.	Question	Response	Attachment
1.	Who has the legislated power to visit youth justice detention centres in your jurisdiction?	<ul style="list-style-type: none"> • The Children’s Commissioner Northern Territory • Official Visitors appointed under s. 169(1) of the <i>Youth Justice Act</i> • Ombudsman NT • Minister for Correctional Services • Youth Justice Advisory Committee 	<p><u>Youth Justice Act</u></p>  <p>Youth Justice Act.pdf</p>
2.	i. Of these, who is responsible for regularly monitoring and reporting on youth justice detention centres?	<p>The Official Visitors have a responsibility under s. 169 of the <i>Youth Justice Act</i> for regularly monitoring and reporting on youth justice detention centres.</p> <p>Other bodies do not have a legislated responsibility to regularly monitor and report on youth detention centres.</p>	Refer <i>Youth Justice Act</i> attachment against item 1.
	ii. Please describe the different roles of each oversight body in your jurisdiction. Is there any overlap between these bodies?	<p><u>The Children’s Commissioner Northern Territory</u> The Children’s Commissioner’s role is:</p> <ul style="list-style-type: none"> • To deal with complaints about services provided to vulnerable children (including the monitoring of how service providers respond to any reports); • The investigation of matters on the Commissioner’s own initiative that may form the grounds for making a complaint (irrespective of when the matter occurred and whether or not a complaint was made); • Undertaking inquiries related to the care and protection of vulnerable children; • Monitoring the implementation of government decisions relating to any inquiries into the care and protection of vulnerable children; • Monitoring the administration of the <i>Care and Protection of Children Act</i> as it pertains to vulnerable children; • Reporting to the Minister on a matter relating to the Commissioner’s functions as requested by the Minister. • Promoting awareness about the rights, interests and wellbeing of vulnerable children; and • Monitoring the ways the child protection department deals with abuse in care allegations. <p><u>Ombudsman NT</u> The Ombudsman NT resolves and investigates complaints about Northern Territory Government departments and authorities and Local Government Councils. The Ombudsman also oversees investigations into complaints about police conduct. A complaint may be made about any decision, recommendation, action or inaction by a department, agency or local government council within the Ombudsman’s jurisdiction.</p> <p><u>Official Visitors</u> Under s. 170 of the <i>Youth Justice Act</i> the Official Visitors have the following functions:</p> <ol style="list-style-type: none"> 1. An official visitor must inquire into the treatment and behaviour of, and the conditions for, detainees in the detention centre for which the official visitor is appointed. 2. An official visitor must, as soon as practicable after each visit to a detention centre, report in writing to the Minister. 3. If the Minister has directed that the official visitor report in relation to a specified matter to the Commissioner, the official visitor must also report in relation to that matter to the Commissioner. 4. The official visitor must have regard to the <i>Youth Justice Act</i> and the <i>Youth Justice Regulations</i> when he or she prepares a report for this section. <p><u>Youth Justice Advisory Committee</u> Under s. 204 of the <i>Youth Justice Act</i>, the functions of the Youth Justice Advisory Committee are as follows:</p> <ol style="list-style-type: none"> a) to monitor and evaluate the administration and operation of the <i>Youth Justice Act</i> (the <i>Act</i>); 	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p> <p><u>Youth Justice Regulations</u></p>  <p>Youth Justice Regulations.pdf</p>

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		<p>b) to advise the Minister (whether on request by the Minister or otherwise) on issues relevant to the administration of youth justice, including the planning, development, integration and implementation of government policies and programs concerning youth;</p> <p>c) to collect, analyse and provide to the Minister information relating to issues and policies concerning youth justice;</p> <p>d) any other functions imposed by the Act; and any other functions as directed by the Minister.</p> <p><u>Minister for Correctional Services</u> Section 168 of the <i>Youth Justice Act</i> provides the Minister with the following powers:</p> <p>(1) The Minister or a person authorised by the Minister may enter and inspect a detention centre at any reasonable time.</p> <p>(2) The Minister may, in writing, authorise a person for subsection (1).</p> <p>(3) On request by the Minister or an authorised person, the superintendent of a detention centre must:</p> <p>(a) produce for inspection the register kept under section 158; and</p> <p>(b) give the Minister or authorised person any information in relation to any detainee in the detention centre.</p> <p>(4) A person must not:</p> <p>(a) hinder the Minister or an authorised person in the exercise of a power under subsection (1); or</p> <p>(b) fail to comply with a requirement under subsection (3).</p> <p>Maximum penalty: If the offender is a natural person –400 penalty units or imprisonment for 2 years. If the offender is a body corporate –2 000 penalty units.</p>	
	<p>iii. How do they interact with each other?</p>	<p>The Department of Correctional Services is not aware of any specific or fore-planned interaction between the bodies in the course of conducting monitoring activities.</p> <p>There is an interaction between the Minister for Correctional Services and each of the bodies in that any reports or correspondence produced by these bodies regarding the youth detention centres may be directed to the Minister.</p>	
<p>3.</p>	<p>Do these bodies have functional independence from the authorities responsible for the youth justice detention centres? Factors to consider include statutory independence, independence of personnel and financial autonomy. (OPCAT Article 18 (1)).</p>	<p>The Children’s Commissioner and the Ombudsman NT have statutory independence, independence of personnel and financial autonomy from the Department of Correctional Services.</p> <p>The Official Visitors and the Youth Justice Advisory Committee have functional independence from the Department of Correctional Services, however are appointed by the Minister for Correctional Services under the <i>Youth Justice Act</i> (the Act) and are remunerated by the Department of Correctional Services in accordance with the Act.</p> <p>The Minister for Correctional Services is responsible for the delivery of correctional services within the Northern Territory including decision-making in relation to the administration, policy and funding of the Department of Correctional Services.</p>	
<p>4.</p>	<p>i. What are the recruitment processes for those bodies responsible for monitoring?</p>	<p>The Department of Correctional Services is unable to comment on the recruitment processes of the offices of the Children’s Commissioner, the Ombudsman NT or the Minister for Correctional Services.</p> <p><u>Official Visitors</u> Official Visitors are appointed by the Minister for Correctional Services under s. 169(1) of the <i>Youth Justice Act</i>. The recruitment process for Official Visitors is as follows:</p> <ol style="list-style-type: none"> Place advertisements in the NT News, regional and community newspapers seeking expressions of interest (EOIs) from persons wishing to be considered for appointment as an Official Visitor. Seek information regarding applicant’s personal and professional background including a Curriculum Vitae and a statement detailing why they would like to undertake the role of an Official Visitor. 	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p> <p><u>Official Visitors</u></p>  <p>Official Visitors Program_procedures</p>

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		<p>2. Review EOIs and conduct a shortlisting process if required, based on applicants experience of working with young people and/or in a detention environment and knowledge of child welfare/detention related issues. Experience working in the fields of mental health and/or social work may also be beneficial.</p> <p>3. Follow the standard Department of Correctional Services recruitment processes.</p> <p>4. The Coordinator is to make a recommendation to the Executive Director that the Minister appoints the preferred applicants as Official Visitors.</p> <p>5. Prior to appointment, ensure prospective Official Visitors undergo a criminal history check and have a valid "Working with Children Clearance Card" (Ochre Card). Also ask prospective Official Visitors to submit a conflict of interest declaration.</p> <p>Official Visitors may re-apply for appointment each three years, but in order to be considered they are required to submit a new application and associated documentation.</p> <p>Youth Justice Advisory Committee members are appointed by the Minister for Correctional Services under s. 206 of the <i>Youth Justice Act</i>. Members are appointed for a three year period and this term may be renewed at the member's nomination.</p> <p>Section 203(2) of the <i>Youth Justice Act</i> requires that:</p> <p><i>The Committee must reflect the composition of the community at large and accordingly, as far as practicable, should consist of the following:</i></p> <ul style="list-style-type: none"> a) <i>equal numbers of male and female members;</i> b) <i>at least 2 members who are Aboriginals;</i> c) <i>at least one member who is under the age of 25 years at the time of appointment;</i> d) <i>at least one member who has formerly been a detainee;</i> e) <i>one member who is an official visitor within the meaning of Part 9;</i> f) <i>at least one member who, at the time of appointment, resides in the Alice Springs area;</i> g) <i>at least one member who, at the time of appointment, resides in a remote community.</i> <p>Additionally, Section 206 of the <i>Youth Justice Act</i> requires that the composition of membership be, as far as practicable, comprised of:</p> <ul style="list-style-type: none"> a) <i>one person nominated by the Commissioner; and</i> b) <i>one person nominated by the Commissioner of Police; and</i> c) <i>one person nominated by the Agency responsible for protection of children and young people; and</i> d) <i>one person nominated by the Agency responsible for education of youth; and</i> e) <i>one person nominated by the Agency responsible for crime prevention; and</i> f) <i>one person nominated by a peak youth organisation; and</i> g) <i>one person nominated by the Law Society Northern Territory; and</i> h) <i>the remainder drawn from the community generally, and the Aboriginal community in particular.</i> <p>If a vacancy occurs for a membership position that requires representation from a particular body listed under s.206, the Department of Correctional Services would seek nomination of a replacement representative from the agency concerned.</p>	


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		<p>In relation to the recruitment process for community members, vacancies are publically advertised and are received as expressions of interest. These applications are assessed by The Department of Correctional Services in consideration of an applicant's merit and the composition of membership required under s. 203(2) of the <i>Youth Justice Act</i>. An appointment is then recommended to the Minister for approval.</p>	
	<p>ii. Are they statutory appointments?</p>	<p>All appointments of the bodies are statutory appointments.</p>	
	<p>iii. Who is responsible for making these appointments and what criteria must candidates fulfil? (OPCAT Article 18 (1)-(2)).</p>	<p>The Department of Correctional Services is unable to comment on the responsibility for appointment and the criteria for candidates in relation to appointments made by the offices of the Children's Commissioner, the Ombudsman NT or the Minister for Correctional Services.</p> <p>The Minister for Correctional Services is responsible for making the appointments of the Official Visitors and the members of the Youth Justice Advisory Committee.</p> <p><u>Official Visitors</u> According to s. 169(1) of the <i>Youth Justice Act</i>, the Minister is responsible for making an appointment of an Official Visitor. There is no specific criteria required for Official Visitors, aside from that they must be able to perform the function of the role.</p> <p><u>Youth Justice Advisory Committee</u> S. 206 of the <i>Youth Justice Act</i> specifies the composition of the Youth Justice Advisory Committee and states it must consist of not less than 8 and not more than 12 members appointed by the Minister.</p> <p>Section 206 of the <i>Youth Justice Act</i> also requires that the composition of membership be, as far as practicable, comprised of:</p> <ul style="list-style-type: none"> a) one person nominated by the Commissioner; and b) one person nominated by the Commissioner of Police; and c) one person nominated by the Agency responsible for protection of children and young people; and d) one person nominated by the Agency responsible for education of youth; and e) one person nominated by the Agency responsible for crime prevention; and f) one person nominated by a peak youth organisation; and g) one person nominated by the Law Society Northern Territory; and h) the remainder drawn from the community generally, and the Aboriginal community in particular. <p>The Minister must be satisfied that each person appointed to be a member has experience, skills, qualifications or other credentials that the Minister considers appropriate for the person to satisfactorily contribute to the Committee's work.</p>	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p>
<p>5.</p>	<p>What formal powers do these bodies have in relation to:</p> <p>i. monitoring youth justice detention centres; including conducting thematic reviews, conducting 'own motion' investigations, conducting systemic reviews, undertaking visits to or inspections of facilities, conducting investigations, responding to complaints, conducting audits (OPCAT Article 19 (a)).</p>	<p>The Department of Correctional Services is unable to provide advice on the formal powers for the Children's Commissioner and the Ombudsman as these are contained within their own specific legislation.</p> <p><u>Official Visitors</u> The formal powers attributed to an Official Visitor in this regard are in accordance with the functions provided for in s.170 <i>Youth Justice Act</i>:</p> <ul style="list-style-type: none"> 5. An official visitor must inquire into the treatment and behaviour of, and the conditions for, detainees in the detention centre for which the official visitor is appointed. 6. An official visitor must, as soon as practicable after each visit to a detention centre, report in writing to the Minister. 7. If the Minister has directed that the official visitor report in relation to a specified matter to the Commissioner, the official visitor must also report in relation to that matter to the Commissioner. 8. The official visitor must have regard to the <i>Youth Justice Act</i> and the <i>Youth Justice Regulations</i> when he or she prepares a report for this section. 	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p>


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		<p>The formal powers attributed to a member of the Youth Justice Advisory Committee in this regard are in accordance with the functions provided for in s.205 of the <i>Youth Justice Act</i>. <i>The Committee has the powers necessary or convenient to carry out its functions.</i></p> <p><u>Youth Justice Advisory Committee</u></p> <p>The functions of the Youth Justice Advisory Committee are in accordance with s. 204 of the <i>Youth Justice Act</i>:</p> <ul style="list-style-type: none"> a) <i>to monitor and evaluate the administration and operation of the Youth Justice Act (the Act);</i> b) <i>to advise the Minister (whether on request by the Minister or otherwise) on issues relevant to the administration of youth justice, including the planning, development, integration and implementation of government policies and programs concerning youth;</i> c) <i>to collect, analyse and provide to the Minister information relating to issues and policies concerning youth justice;</i> d) <i>any other functions imposed by the Act; and</i> e) <i>any other functions as directed by the Minister.</i> 	
	<p>ii. free access to all areas of youth justice detention centres (OPCAT Article 20 (c)),</p>	<p>When lawfully entering a youth detention centre, all bodies with powers to enter NT youth detention centres have the ability to access all areas of the detention centre.</p> <p>The Department of Correctional Services is unable to provide advice on the formal powers for the Children’s Commissioner and the Ombudsman as these are contained within their own specific legislation.</p> <p>In relation to Official Visitors, s.170(1) of the <i>Youth Justice Act</i> states:</p> <p><i>An official visitor must inquire into the treatment and behaviour of, and the conditions for, detainees in the detention centre for which the official visitor is appointed.</i></p> <p>Additionally, while Official Visitors have free access to all areas of the youth detention centres, s.172 of the <i>Youth Justice Act</i> states:</p> <p><i>An official visitor must not, during or after a visit to a detention centre, interfere with or give instructions to a member of the staff of the detention centre regarding the management, discipline or treatment of detainees.</i></p>	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p>
	<p>iii. free access to information and documentation regarding numbers of, location of, conditions and treatment of children held in youth justice detention centres (OPCAT Article 20 (a)-(b)),</p>	<p>The Department of Correctional Services is unable to provide advice on the specific formal powers for the Children’s Commissioner and the Ombudsman as these are contained within their own specific legislation.</p> <p>In relation to Official Visitors, s. 170(1) of the <i>Youth Justice Act</i> states:</p> <p><i>An official visitor must inquire into the treatment and behaviour of, and the conditions for, detainees in the detention centre for which the official visitor is appointed.</i></p> <p>This would provide Official Visitors with the power to request access to information and documentation regarding numbers of, location of, conditions and treatment of children held in youth detention centres. There is no formal power that says this information must be provided to Official Visitors</p> <p>In relation to the Youth Justice Advisory Committee, s. 204 of the <i>Youth Justice Act</i> states:</p> <ul style="list-style-type: none"> a) <i>to monitor and evaluate the administration and operation of the Youth Justice Act (the Act);</i> b) <i>to advise the Minister (whether on request by the Minister or otherwise) on issues relevant to the administration of youth justice, including the planning, development, integration and implementation of government policies and programs concerning youth;</i> c) <i>to collect, analyse and provide to the Minister information relating to issues and policies concerning youth justice;</i> d) <i>any other functions imposed by the Act; and</i> 	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p>






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	<p>e) <i>any other functions as directed by the Minister.</i></p> <p>iv. capacity to meet privately with detainees and others (OPCAT Article 20 (d)),</p> <p>v. confidential information is privileged (OPCAT Article 21(2)),</p> <p>vi. immunities for persons who communicate with the body (OPCAT Article 21(1))?</p>	<p>The Official Visitors, Children’s Commissioner and Ombudsman are all lawfully able to meet privately with detainees and others. Detainees must consent to these meetings. Others, such as staff members, may be compelled to meet with the Children’s Commissioner or the Ombudsman depending on the powers under which they are operating. These meetings occur on an ad-hoc basis.</p> <p>The Department of Correctional Services is unable to provide advice on the formal powers for the Children’s Commissioner and the Ombudsman as these are contained within their own specific legislation.</p> <p>There are no express formal powers within the <i>Youth Justice Act</i> that specify that confidential information is privileged.</p> <p>The Department of Correctional Services is unable to provide advice on the formal powers for the Children’s Commissioner and the Ombudsman as these are contained within their own specific legislation.</p> <p>There are no express formal powers within the <i>Youth Justice Act</i> that provide immunity for persons that communicate with the Youth Justice Advisory Committee or the Official Visitors.</p>	
6.	<p>In practice, do these bodies undertake the following, and how frequently?</p> <p>a) Thematic reviews</p> <p>b) 'Own motion' investigations</p> <p>c) Systemic reviews</p> <p>d) Visits to facilities</p> <p>e) Investigations</p> <p>f) Responses to complaints</p> <p>g) Audits</p> <p>h) Access to all areas of youth justice detention centres</p> <p>i) Access to information and documentation regarding numbers of, location of, conditions and treatment of people held in youth justice detention centres</p> <p>j) Meetings in private with detainees and others</p> <p>k) Other monitoring activities (please specify).</p>	<p>a) Thematic reviews The Children’s Commissioner may undertake thematic reviews as they relate to the functions under the <i>Children’s Commissioner Act</i>. These reviews are conducted on an ad-hoc basis.</p> <p>b) 'Own motion' investigations The Children’s Commissioner may undertake ‘own motion’ investigations pursuant to the powers within the <i>Children’s Commissioner Act</i>. These investigations are conducted on an ad-hoc basis.</p> <p>c) Systemic reviews The following entities may conduct reviews on the youth justice system as a whole:</p> <ul style="list-style-type: none"> • The Youth Justice Advisory Council has a responsibility to provide advice to the Minister on issues, policies, programs and the administration of youth justice in the NT. • The Children’s Commissioner may conduct reviews of the youth justice system, including intersection with other agencies with mutual responsibility for client service delivery. <p>d) Visits to facilities The following entities conduct visits to youth detention centres:</p> <ul style="list-style-type: none"> • Official Visitors: Pursuant to s. 171 of the <i>Youth Justice Act</i>, each detention centre must be visited by an official visitor appointed for that detention centre at least once every month. • The Children’s Commissioner. • The Minister for Correctional Services. <p>The frequency of these visits (unless specified otherwise above) are conducted on an ad-hoc basis.</p> <p>e) Investigations The Children’s Commissioner can conduct investigations</p> <p>f) Responses to complaints The Official Visitors, Children’s Commissioner and the Ombudsman all respond to complaints. The frequency of complaint responses are ad-hoc and are commensurate with the frequency of complaints received.</p> <p>g) Audits Audit processes are conducted by the Professional Standards Unit within the Department of Correctional Services. There is no dedicated external body that conducts audits within the NT youth detention centres.</p> <p>h) Access to all areas of youth justice detention centres</p>	<p><u>Children’s Commissioner Act</u></p>  <p>Children's Commissioner Act.pdf</p>






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		<p>When lawfully entering a youth detention centre, all bodies with powers to enter NT youth detention centres have the ability to access all areas of the detention centre. This access is conducted on an as-needs basis.</p> <p>i) Access to information and documentation regarding numbers of, location of, conditions and treatment of people held in youth justice detention centres When lawfully entering a youth detention centre, all bodies with powers to enter NT youth detention centres have the ability to access information regarding numbers of, location of, conditions and treatment of people held in youth detention centres This access is conducted on an as-needs basis.</p> <p>j) Meetings in private with detainees and others The Official Visitor, legal representative, Children’s Commissioner and Ombudsman are all able to meet privately with detainees and others. These meetings occur on an ad-hoc basis.</p> <p>k) Other monitoring activities (please specify). None.</p>	
7.	<p>Do these bodies use standards/guidelines/frameworks for monitoring youth justice detention centres and conducting visits? If yes, please provide details.</p>	<p>The Department of Correctional Services is unable to comment on the processes undertaken by the Children’s Commissioner and the Ombudsman NT to monitor against standards/guidelines/frameworks.</p> <p>There are no specified standards/guidelines/frameworks for the Youth Justice Advisory Committee and the Official Visitors to monitor the youth detention centres against, however some examples of what may be used include:</p> <ul style="list-style-type: none"> • The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). • The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (The Havana Rules). • The Australian Juvenile Justice Administrators standards. • The legislative framework, particularly the principles of the <i>Youth Justice Act</i> • The United Nations Convention on the Rights of the Child. • The Standard guidelines for corrections within Australia (Note: this is not a youth specific document). • The Department of Correctional Services’ policy framework. 	
8.	<p>Are the standards/guidelines/frameworks publicly available?</p>	<p>The Department of Correctional Services is unable to comment on the availability of any standards/guidelines/frameworks used by the Children’s Commissioner and the Ombudsman NT in this regard.</p> <p>The majority of the standards/guidelines/frameworks that could be adopted by the Official Visitors or the Youth Justice Advisory Committee are publically available, with the exception of the Department of Correctional Services’ policy framework.</p>	
9.	<p>i. After a monitoring activity, what is the reporting process?</p>	<p>The reporting process varies depending on the external body conducting the monitoring activity.</p> <p>The Department of Correctional Services is unable to comment on the processes undertaken by the Children’s Commissioner and the Ombudsman NT in this regard.</p> <p><u>Official Visitors</u></p> <p>The Official Visitor reporting requirements are specified in s.170 of the <i>Youth Justice Act</i>.</p> <p>170 Functions of official visitors (1) An official visitor must inquire into the treatment and behaviour of, and the conditions for, detainees in the detention centre for which the official visitor is appointed. (2) An official visitor must, as soon as practicable after each visit to a detention centre, report in writing to the Minister. (3) If the Minister has directed that the official visitor report in relation to a specified matter to the Commissioner, the official visitor must also report in relation to that matter to the Commissioner.</p>	<p>Refer <i>Youth Justice Act</i> attachment against item 1..</p>

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		<p><i>(4) The official visitor must have regard to this Act and the Regulations when he or she prepares a report for this section.</i> 171 Frequency of visits <i>A detention centre must be visited by an official visitor appointed for that detention centre at least once every month.</i></p> <p>The Official Visitors procedure states that “the Minister needs to be satisfied, via the reporting process, that individual Official Visitors are meeting the obligations of their appointment and that the Official Visitors Program overall is working effectively. A report from the Official Visitor to the Minister is required after each monthly visit and should be submitted within 14 days of the visit. These reports will be most effective if they are appropriately followed up by youth justice management and recommendations taken on board by the relevant operational areas. It is also important to ensure that OVs are informed of the follow up conducted, and any action resulting from their reports and recommendations”.</p> <p>The Department of Correctional Services is unable to comment on the actual process adopted by individual Official Visitors in drafting a report.</p> <p><u>Youth Justice Advisory Committee</u></p> <p>The Youth Justice Advisory Committee are required to produce an Annual Report. Section 213 of the <i>Youth Justice Act</i> states that:</p> <p><i>(1) The Committee must, as soon as practicable after 30 June in each year, and in any event not later than the next following 30 September, give to the Minister a report on the activities of the Committee during the preceding financial year.</i> <i>(2) The Minister must table a copy of the report in the Legislative Assembly within 5 sitting days of the Assembly after receiving it.</i></p> <p>The Department of Correctional Services is unable to comment on the actual process adopted by the Youth Justice Advisory Committee in drafting its report.</p>	
	<p>ii. Are reported findings made publically available?</p>	<p>The Department of Correctional Services is unable to comment on the decision to make reports publically available by the Children’s Commissioner and the Ombudsman NT in this regard.</p> <p><u>Official Visitors</u></p> <p>There is nothing that the Department of Correctional Services can identify that would preclude the Minister from making the Official Visitor findings public, however the Department of Correctional Services is not aware of this occurring as regular or standard practice.</p> <p><u>Youth Justice Advisory Committee</u></p> <p>As per 213(2) of the Act, the annual report provided by YJAC to the Minister (as per section 212(1)) must be tabled by the Minister for Correctional Services: <i>213 (2) The Minister must table a copy of the report in the Legislative Assembly within 5 sitting days of the Assembly after receiving it.</i></p> <p>Additionally, the Department of Correctional Services’ website has electronic copies of the Youth Justice Advisory Committee’s annual reports subsequent to their tabling in the Legislative Assembly.</p>	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p>
	<p>iii. If yes, how frequently are such findings made public? (OPCAT Article 23)</p>	<p>The Department of Correctional Services is only able to confirm the frequency of the Youth Justice Advisory Committee reports being made public which is annually.</p>	
<p>10.</p>	<p>i. Do oversight and monitoring bodies in your jurisdiction have the statutory power to make recommendations and submit proposals concerning existing and proposed legislation?</p>	<p><u>Statutory oversight bodies</u> There are no specific statutory powers that compel the Children’s Commissioner, the Ombudsman or an Official Visitor to make recommendations concerning existing and proposed legislation, but there is also nothing to preclude them from doing so. It would,</p>	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p>






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		<p>however, be the decision of the Northern Territory Government to adopt any such recommendations.</p> <p>The Youth Justice Advisory Committee statutory functions under s. 204 of the <i>Youth Justice Act</i> are:</p> <ul style="list-style-type: none"> (a) to monitor and evaluate the administration and operation of the <i>Youth Justice Act</i> (the Act); (b) to advise the Minister (whether on request by the Minister or otherwise) on issues relevant to the administration of youth justice, including the planning, development, integration and implementation of government policies and programs concerning youth; (c) to collect, analyse and provide to the Minister information relating to issues and policies concerning youth justice; (d) to collect, analyse and provide to the Minister information relating to issues and policies concerning youth justice; (e) any other functions imposed by this Act; (f) any other functions as directed by the Minister. <p>The Department of Correctional Services is of the view that these functions would allow for this body to make recommendations and submit proposals regarding existing and proposed legislation. It would, however, be the decision of the Northern Territory Government to adopt any such recommendations.</p> <p><u>Non-statutory oversight bodies</u></p> <p><u><i>Youth Detention Legislative Provisions Working Group</i></u> As an additional measure, the Department of Correctional Services has commenced the establishment of the Youth Detention Legislative Provisions Working Group (Working Group). The Working Group is not a statutory body; rather it accords with a commitment from the Minister for Correctional Services made during the introduction of the <i>Youth Justice Amendment Bill 2016</i>, to review the detention provisions of the <i>Youth Justice Act</i> within 24 months of the Bill coming into force.</p> <p>The Working Group's primary ambit is to review and provide advice in relation to Part 8 'Youth detention centres', Division 2 'Superintendent' of the Act.</p> <p>The Working Group has the flexibility to examine or be informed by other provisions within the Act that have clear intersection with detention centre operations and detainees in detention.</p> <p>The Working Group is initially established for a period of 12 months. It is expected that within this period, the Working Group will have completed their review of the specified provisions of the Act, and made relevant recommendations for legislative reform to be contained in a report.</p> <p>The finalised report will be provided to the Minister for Correctional Services for Government's consideration.</p> <p>The Working Group consists of persons with specialist knowledge, experience or interest in relation to the youth justice system, young people in the system, and youth detention centres. Representatives are drawn from within the following agencies:</p> <ul style="list-style-type: none"> • Department of Correctional Services; • Department of the Chief Minister; • Department of the Attorney-General and Justice; • Department of Children and Families; • Department of Education; • Department of Health; • Northern Territory Police, Fire and Emergency Services; • Office of the Children's Commissioner; • Central Australian Aboriginal Legal Aid Service; 	<p><u>Terms of Reference: Legislative provisions working group</u></p>  <p>Terms Of Reference Youth Detention Prov</p>





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		<ul style="list-style-type: none"> • North Australian Aboriginal Justice Agency; and • Northern Territory Legal Aid Commission. <p><u>Youth Detention Restraint Practice Advisory Committee</u></p> <p>Additionally, to oversee restraint practices in youth detention, the Department of Correctional Services has established the Youth Detention Restraint Practice Advisory Committee (Advisory Committee). The Advisory Committee will provide specialist advice and guidance to the Commissioner of Correctional Services with regards to restraint practices in youth detention, including the development and assessment of operational procedures and training for staff.</p> <p>The objective of the Advisory Committee is to ensure that there is critical oversight of the restraint practices in youth detention, which provides a mechanism to increase the Department of Correctional Services' accountability to Government and the public. The Advisory Committee may recommend practice amendments, and resultant legislative amendment if appropriate.</p> <p>Permanent membership of the Advisory Committee is anticipated to include representatives from the following NT Government agencies:</p> <ul style="list-style-type: none"> • Department of the Chief Minister; • Department of the Attorney-General and Justice; • Department of Children and Families; • Department of Education; • Department of Health; • Northern Territory Police, Fire and Emergency Services; and • Department of Correctional Services. <p>Pro re nata membership is not limited to, but was expected to include, representatives from the Office of the Children's Commissioner and the Office of the Information Commissioner, in addition to other persons from The Department of Correctional Services.</p>	<p><u>Terms of Reference: Restraint Practice Advisory Committee</u></p>  <p>Terms Of Reference Restraint Practice Ad</p>
	<p>ii. How often are these recommendations implemented? (OPCAT Article 19 (a)).</p>	<p>If the recommendations are accepted by The Department of Correctional Services and/or the Minister for Correctional Services, the implementation of the recommendations would be on an ad-hoc basis.</p>	
11.	<p>i. Which community-based organisations regularly visit youth justice detention centres in your jurisdiction?</p>	<p>The following community-based organisations regularly visit NT youth detention centres:</p> <ul style="list-style-type: none"> • North Australian Aboriginal Justice Agency • Central Australia Aboriginal Legal Aid Service • CatholicCare • Red Cross • Elders Visiting program • Mission Australia (Alice Springs) • Desert Life Christian Centre (Alice Springs) • Reclink (Alice Springs) • Red Dust (Alice Springs) 	
	<p>ii. What is the purpose of these visits?</p>	<p>Depending on the remit of the organisations, the following is a range of services and purposes of the visits:</p> <ul style="list-style-type: none"> • Legal support for detainees • Participation in through-care planning • Delivery of psycho-educational and support programs 	
12.	<p>i. Do you think that the oversight bodies that visit youth detention centres in your jurisdiction are OPCAT ready?</p>	<p>The Department of Correctional Services is unable to comment on the OPCAT readiness of the external bodies.</p> <p>The Department of Correctional Services is of the view that the Official Visitor program and the Youth Justice Advisory Committee would require training to enable them to be OPCAT ready.</p>	
	<p>ii. Why or why not?</p>	<p>The Department of Correctional Services is not aware of the level of knowledge or familiarity these bodies have of OPCAT and therefore would need to ensure this is substantial enough to be considered "OPCAT ready".</p>	

No.	Question	Response	Attachment
13.	<p>i. Does your jurisdiction maintain registers for:</p> <p>a) Use of force and methods of restraint b) Solitary confinement and isolation c) Critical incidents d) Searches e) Complaints</p>	<p>The following registers are maintained in the NT:</p> <p>a) Use of force and methods of restraint: Yes. b) Solitary confinement and isolation: Yes. This information is recorded in the electronic information system and paper-based de-escalation room journal. c) Critical incidents: Yes. Critical Incidents are recorded in the electronic information system. d) Searches: Yes. e) Complaints: Yes.</p>	<p><u>Record-keeping and reporting procedure</u></p>  <p>Reporting record-keeping_proce</p>
	<p>ii. Are you required by legislation to maintain any of these registers?</p>	<p>There is a legislative requirement to maintain some registers:</p> <p>a) Use of force and methods of restraint: Not legislatively required.* b) Solitary confinement and isolation: Yes. Reg. 72(3) of the Youth Justice Regulations requires a journal to be maintained in relation to isolation in cell. c) Critical incidents: Not legislatively required. d) Searches: Yes. Reg. 74 of the Youth Justice Regulations requires a journal to be maintained in relation to searches. e) Complaints: Yes. Reg. 67 of the Youth Justice Regulations requires a journal to be maintained in relation to complaints.</p> <p>* The Northern Territory Government introduced the <i>Youth Justice Amendment Bill 2016</i> into the Legislative Assembly on 22 April 2016.</p> <p>Clause 12 of the <i>Youth Justice Amendment Bill 2016</i> inserts a new section 158A, under the heading of 'Register of use of approved restraints'. This clause states that the superintendent of a detention centre must keep a register containing the following particulars in relation to the use of approved restraints:</p> <p>(a) the name of the detainee who was restrained; (b) the particular approved restraint that was used; (c) the circumstances in which the approved restraint was used; (d) the date on which the approved restraint was used; (e) the time the approved restraint was used, including the time at which the approved restraint was applied and the time at which the approved restraint was removed; (f) the name of the person who authorised the use of the approved restraint; (g) any medical attention that was required; and (h) any other particulars prescribed by the Regulations.</p>	<p>Refer <i>Youth Justice Act</i> attachment against item 1.</p>
	<p>iii. What information is included in each register? Is any of this information publicly available?</p>	<p>Most registers are in a template format which provides guidance on the information required. A summary below of the general information required for each register/record is below.</p> <p><u>Searches</u></p> <ul style="list-style-type: none"> the name of the detainee; the names of the members of staff who carried out the search; the nature of the search, for example, the detainee's person, clothing or room; the date and time the search was carried out; the reason for the search; and the results of the search. <p><u>Complaints</u></p> <ul style="list-style-type: none"> Reference number Date of complaint Detainee name Identification number Nature of complaint Outcome Completion Date of completion <p><u>Use of force and methods of restraint</u></p> <ul style="list-style-type: none"> Detainee identification details Date Time 	<p><u>Body Search register</u></p>  <p>Body Search Register - Jan 2015.doc</p> <p><u>Cell/area inspection search</u></p>  <p>Search - Inspection_Journal.pdf</p> <p><u>Complaints register</u></p>  <p>Detainee Complaint_Register.pdf</p> <p><u>Use of force/restraint register</u></p>  <p>Use of Force-Restraints_Reg</p>

No.	Question	Response	Attachment
		<ul style="list-style-type: none"> • Officers involved • Officer authorising the use of force/restraint • Type of force/restraint • Reason for use of force/restraint • Manner of supervision for use of force/restraint • Corresponding electronic record of use of force/restraint • Date and time of commencement and cessation of force/restraint • Injuries sustained • Medical attendance • Independent record (i.e. CCTV, video, photographs) <p><u>Solitary confinement and isolation</u></p> <ul style="list-style-type: none"> • Detainee identification details • Supervisor • Officers making the placement • Reason for placement • Use of force • Notification to management • Date • Time in • Time out • Observation record <p><u>Critical Incidents</u></p> <ul style="list-style-type: none"> • the date, time and location (within the youth detention centre) of the incident; • the name of the reporting officer; • the detainee/s involved; • staff involved/witnessing the incident; • the sequential order of events leading up to, during and after the incident; and • the action taken in response to the incident. 	<p><u>Solitary confinement/isolation journal</u></p>  <p>De-Escalation Room_Journal.pdf</p>
	<p>iv. Who is responsible for maintaining each register?</p>	<p>All Department of Correctional Services youth detention centre staff that carried out the duties of the registers are responsible for the maintenance of the relevant registers. Entries in the registers are quality checked by management to ensure that entries are made and all information is correct. Once the registers are complete they are handed to the Deputy Superintendent for record-keeping purposes.</p>	
	<p>v. What reporting process applies to each register?</p>	<p>There is no one specific reporting process for each register. Each register may contribute to a regular report or the information may be collated and reported on in an ad-hoc manner. The registers are routinely audited by the department's Professional Standards Unit.</p> <p>Incident reporting occurs in accordance with the process outlined in the "Record-keeping and reporting procedure" (see attached).</p>	<p><u>Record-keeping and reporting procedure</u></p>  <p>Reporting record-keeping_proce</p>
<p>15.</p>	<p>i. In your jurisdiction, what is the internal process for making and considering complaints in youth justice detention centres?</p>	<p>The "Internal complaints" section of the youth detention procedures manual provides the process for internal complaints. This is attached to this document for reference.</p>	<p><u>Internal Complaints procedure</u></p>  <p>Internal Complaints_procedur</p>
	<p>ii. What legislation or policies govern the internal complaints process?</p>	<p>The governance of internal complaints processes falls under S. 163 of the <i>Youth Justice Act</i> and Reg. 66 and Reg. 67 of the Youth Justice Regulations.</p>	<p><u>Youth Justice Act</u></p>  <p>Youth Justice Act.pdf</p>
<p>16.</p>	<p>i. Which external bodies handle complaints about youth justice detention centres?</p>	<p>The following offices or positions can receive and handle complaints about NT youth detention centres:</p> <ul style="list-style-type: none"> • The Children's Commissioner Northern Territory • Official Visitors appointed under s. 169(1) of the <i>Youth Justice Act</i> • Ombudsman NT • Minister for Correctional Services 	<p><u>Youth Justice Act</u></p>  <p>Youth Justice Act.pdf</p>

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	ii. What is the process for children and young people to make an external complaint?	All detainees have access to telephone the office of the Children's Commissioner and the relevant legal aid agency. This is facilitated by the Department of Correctional Services upon request by a detainee.	
	iii. How are these external bodies administered and how is their independence guaranteed?	The Department of Correctional Services is unable to comment on the administration of external bodies.	
17.	i. Are children and young people able to communicate confidentially with complaint handling bodies?	Yes.	
	ii. If so, how is the confidentiality of these communications guaranteed?	A meeting space is facilitated that allows a detainee to converse privately with the relevant body. This is arranged in consideration of the detainee's consent to the private conversation and the safety and security requirements of those involved.	
18.	i. In 2014/2015, how many internal complaints were received, investigated and resolved in your jurisdiction?	There were 63 internal complaints received, investigated and resolved in the Don Dale Youth Detention Centre (Darwin). There were 23 internal complaints received, investigated and resolved in the Alice Springs Youth Detention Centre (Alice Springs). The total number of internal complaints for the Northern Territory youth detention centre for the 2014-2015 year was 86.	
	ii. Is this publicly reported?	No.	
19.	i. What were the nature of the complaints handled in the internal process?	The nature of the complaints varied however the following common themes of the detainee complaints include: <ul style="list-style-type: none"> • Staff communication with detainees • Accommodation/facilities • Food • Incentives/sanctions not aligning with the detainee's expectations. • Activities/recreation 	
	ii. Is this publicly reported?	No.	
20.	i. What demographic information is recorded about children and young people whose complaints are handled internally, including age, gender, Indigenous status, cultural and linguistically diverse background, disability, LGBTI?	The demographic information that is recorded by the Department of Correctional Services includes the age, gender and Indigenous status of a detainee. This information is recorded for all detainees within the youth detention centre, however is not necessarily collated or included specifically in relation to complaint matters.	
	ii. Is this information publicly available?	The demographic information contained within the Department of Correctional Services information systems is not publically available in relation to individual detainees. There are, however, several regular and ad-hoc reports that are available publically which may, at times, contain non-identifying demographic information relating to the youth detention centre population generally.	
21.	In 2014/2015, how many external complaints were received, investigated and resolved in your jurisdiction?	The Department of Correctional Services is unable to provide the total number of external complaint matters received, investigated and resolved due to the handling of these matters by external bodies.	
22.	i. What demographic information is recorded about children and young people whose complaints are handled by an external body, including age, gender, Indigenous status, cultural and linguistically diverse background, disability, LGBTI?	The demographic information that is recorded by the Department of Correctional Services includes the age, gender and Indigenous status of a detainee. This information is recorded for all detainees within the youth detention centre, however is not necessarily collated or included specifically in relation to complaint matters. The Department of Correctional Services is unable to comment on the demographic information that may be collected by external bodies.	
	ii. Is this information publicly available?	The demographic information contained within the Department of Correctional Services information systems is not available publically in relation to individual detainees, however several regular and ad-hoc reports that are available publically may, at times, contain demographic information relating to the youth detention centre population generally including gender, age and indigenous status. The Department of Correctional Services is unable to comment on public access to the demographic information that may be collected by external bodies.	
23.	i. How are the internal and external complaints processes communicated to children and young people and their families or guardians?	Section 150 of the <i>Youth Justice Act</i> states that:	Youth Justice Act

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		<p>(1) As soon as practicable after a youth is admitted to a detention centre, he or she must be given an explanation of the rules of the centre and his or her rights and responsibilities as a detainee.</p> <p>(2) The explanation must be given in a language and manner the youth is likely to understand, having regard to the youth's age, maturity, cultural background and English language skills.</p> <p>(3) Any action taken is not unlawful only because of a failure to comply with this section.</p> <p>(4) For subsection (1), an explanation of the rights and responsibilities of a detainee must include:</p> <p>(a) information about the consequences of breaching the rules of the detention centre; and</p> <p>(b) information about the procedure for making a complaint.</p> <p>This information is provided to young people as part of the reception/admission process in written format with the opportunity for detainees to subsequently discuss with their case worker.</p>	 Youth Justice Act.pdf <u>Detainee Handbook</u>  detainee_infobook.pdf
	<p>ii. Is this information available in a child-friendly format?</p>	<p>Section. 150(2) of the <i>Youth Justice Act</i> states that</p> <p><i>The explanation must be given in a language and manner the youth is likely to understand, having regard to the youth's age, maturity, cultural background and English language skills.</i></p> <p>This information is provided (with these considerations) to young people as part of the reception/admission process and can be subsequently discussed with their case worker</p>	<u>Detainee Handbook</u>  detainee_infobook.pdf
24.	<p>What feedback mechanisms are in place about how children and young people experience complaint processes and, where relevant, the work of community visitors?</p>	<p>There are no formal feedback mechanisms in place in this regard.</p>	
25.	<p>i. Has your jurisdiction placed a child/young person under 18 years in an adult facility between 2014 and 2016?</p>	<p>Yes.</p>	
	<p>ii. Why was the decision to do this taken?</p>	<p>For the safety and security of the youth detention facility and the safety of staff and other detainees.</p>	
	<p>iii. What legislation provides for it?</p>	<p>S. 154 of the <i>Youth Justice Act</i></p>	<u>Youth Justice Act</u>  Youth Justice Act.pdf
	<p>iv. Are there legislated monitoring and reporting requirements in situations where this happens?</p>	<p>No.</p>	
	<p>v. If not, how are these placements monitored?</p>	<p>Detainees are placed in a separate accommodation area to the adult prison population and are supervised by either youth or adult correctional staff whilst in this placement. Placements of this nature would also be monitored by relevant case worker/ health professional/ psychologist.</p>	
26.	<p>Please describe how the rewards and sanctions system operates in youth justice detention centres in your jurisdiction?</p>	<p>The particular behaviour management approach within the NT youth detention centres is based on a token economy system which has been adopted to assist youth in detention to behave in a manner that is of an acceptable standard and encourages the development and maintenance of pro-social behaviour. The token economy system is based on behavioural psychology theory and is used within the youth detention centres as an incentive scheme that has a focus on rewarding positive behaviour.</p> <p>Detainees who have behaved in an appropriate manner are eligible for certain privileges under the token economy system, the most significant of which is the ability to purchase items/bank earnings.</p> <p>The effectiveness of the token economy system is reliant on providing detainees with clear guidelines around the expectations of behaviour, the consequences of appropriate and inappropriate behaviour, and that behaviour is the result of individual choices and responsibility.</p>	<u>Token economy procedure</u>  Q26_5.2.8 Token economy system.pdf
27.	<p>How are children and young people informed of their rights in youth justice detention centres?</p>	<p>Section 150 of the <i>Youth Justice Act</i> requires that young people are informed of their rights and responsibilities as soon as practicable upon admission to a detention centre. The Act</p>	<u>Youth Justice Act</u>

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		<p>specifies that this must include information about the consequences of breaching the rules of the detention centre and information about the procedure for making a complaint. The Act states that this information is to be provided in language and manner that the youth is likely to understand, having regard to the youth's age, maturity, cultural background and English language skills.</p> <p>This information is provided to young people as part of the reception/admission process and can be subsequently discussed with their case worker.</p>	<p> Youth Justice Act.pdf</p> <p><u>Detainee Handbook</u></p> <p> detainee_infobook.pdf</p>
28.	What training is in place for management and staff in relation to children's rights?	There is no one specific training core unit focusing on children's rights in the training package for youth justice officers; however trainee youth justice officers receive, as part of their initial training package, an address from the Office of the Children's Commissioner, in addition to completing several units relating to child and adolescent welfare, working effectively with young people and mandatory reporting for domestic violence and child abuse.	
29.	In your jurisdiction, are there special provisions for monitoring the transportation of children and young people held in police/court custody?	<p>The NT Police hold responsibility for transporting young people to court following arrest if they are seeking a remand warrant. Police are also responsible for transportation of young people either back to the community or to the youth detention facility following their attendance at court, depending on the decision made by the court as to their release or remand warrant. The Department of Correctional Services is therefore unable to comment on the provisions made for monitoring the transportation of young people in police custody as this is conducted by police.</p> <p>For young people that are in custody within a youth detention centre (whether on a remand order or who have been sentenced to custody) and are required to attend court; the Department of Correctional Services is responsible for monitoring the transportation of young people to and from court (and in supervising young people in attendance at court).</p>	<p><u>External Escorts procedure – Alice Springs</u></p> <p> ASP 2.1 - External Escorts.pdf</p> <p><u>External Escorts procedure – Darwin</u></p> <p> DWN 2.1 - External Escorts.pdf</p>