



ICS
ACT Inspector
of Custodial
Services

A REVIEW OF A DETENTION PLACE

by the

ACT CUSTODIAL INSPECTOR

*Healthy Centre Review
of Bimberi Youth
Justice Centre 2024*



Rainbow Serpent Marilyn Kelly-Parkinson of the Yuin Tribe (2018)

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

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

About this report

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We acknowledge the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region. 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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Rebecca Minty
ACT Custodial Inspector
December 2024

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Foreword

This is the second 'Healthy Centre Review' of Bimberi Youth Justice Centre, 3 years after the inaugural review. Thank you to the young people who we spoke to in Bimberi for sharing your perspectives and experiences, with candour and generosity. Your reflections, insights and ideas have contributed greatly to a review which is forward looking and focused on improving the experience for other young people.

I also gratefully acknowledge the constructive engagement of the Community Services Directorate, particularly Bimberi staff, as well as Justice Health Services and the Education Directorate. We appreciate the efficient access to all the information, people and places and the reflective insights that many staff shared.

Thank you also to the many other stakeholders that spoke to us. They have contributed to making this review a comprehensive assessment of the treatment and care of detained young people at Bimberi.

ACT law already requires that detention of children and young people should be a last resort. If detention is used, a young-person centred therapeutic focus stands the best chance of supporting young people during their time in Bimberi and importantly, post release. This is better for young people, and ultimately creates a safer community.

The ACT government's commitment to raise the age of criminal responsibility to 14 for most offences from mid-2025 is an extremely important one. I hope the timing of this review will encourage some reflection about the role youth detention plays in the ACT in the context of the broader youth justice system.

Finally, a huge thanks to the review team for their hard work and commitment and in particular the work of Sean Costello as review lead, Pip Courtney-Bailey, Andreea Lachsz, Dr Michael Levy, Barbara Causon and Jayke Fleury.

Rebecca Minty

Inspector of Custodial Services

November 2024

Glossary

Bimcoins	Incentive points provided to young people by Bimberi staff and Murrumbidgee School staff
BMF	Behaviour Management Framework. The BMF sets the standard of behaviour for young people in Bimberi and includes practice guides, strategies and interventions to respond to young people's behaviours while maintaining a safe and secure environment.
Custodial Inspector	ACT Custodial Inspector established by the <i>Custodial Inspector Act 2017</i> (ACT)
Muliyani	Flexible Education program operated by ACT Education Directorate
NPM	National Preventive Mechanism – independent bodies designated under OPCAT, which carry out regular preventive visits to places of detention. OICS is one of three bodies designated for the multi-body ACT NPM.
2023 NPM Isolation Review	OICS 2023 Thematic Review of a Correctional Service: Isolation of children and young people at Bimberi Youth Justice Centre
OPCAT	The <i>Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i> , a human rights treaty that Australia ratified in December 2017. It aims to strengthen protections for people who are detained (or otherwise deprived of their liberty)
Principal Practitioner	CSD staff member who works in the Support and Services Team. The Principal Practitioner's role is focused on providing trauma-informed advice, consultation, and treatment to young people in Bimberi
Review standards	OICS Standards for Youth Detention Places 2024
Segregation	Segregation is defined in section 204 of the CYP Act as: the restriction or denial of the young detainee's opportunity to go into, or be in, a particular part of a detention place; or to associate with other young detainees; and includes separate confinement.
SMD	Special Management Direction – a specific instruction given by the Executive Branch Manager (Youth Justice) implementing a special condition, action or response to a young person.
Support and Services Team	A team at Bimberi Youth Justice Centre consisting of the Principal Practitioner, Programs and Services Manager, Family Engagement Officer and Sports and Recreation Officer.
Team Leader	Youth Detention Officer in charge of one side of an accommodation unit at Bimberi.
TIRA	Tool for Identifying Reasonable Adjustments – a tool used at induction to identify the needs of detained young people.
Unit Manager	Youth Detention Officer in charge of a whole accommodation unit at Bimberi.

Table of Abbreviations

ACTCS	ACT Corrective Services
ACTHRC	ACT Human Rights Commission
AHRC	Australian Human Rights Commission
ALO	Aboriginal and Torres Strait Islander Liaison Officer
ALS	Aboriginal Legal Service NSW/ACT
AMC	Alexander Maconochie Centre (ACT's adult correctional facility)
AVL	Audio-visual link
BMF	Behaviour Management Framework
CCTV	Closed circuit television
CHS	Canberra Health Services
CIT	Canberra Institute of Technology
CSD	Community Services Directorate
CTU	Court Transport Unit (part of ACTCS)
CYP Act	<i>Children and Young People Act 2008 (ACT)</i>
CYPS	Child and Youth Protection Services
CYRIS	Child and youth record information system
FMHS	Forensic Mental Health Services – a service division of MHJHADS
HR Act	<i>Human Rights Act 2004 (ACT)</i>
CI Act	<i>Custodial Inspector Act 2017 (ACT)</i>
JHS	Justice Health Services – a service division of MHJHADS
MHJHADS	Mental Health, Justice Health and Alcohol & Drug Services (Canberra Health Services)
NDIS	National Disability Insurance Scheme
NPM	National Preventive Mechanism
OICS	Office of the Inspector of Custodial Services
OPCAT	<i>The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</i>
OV	Official Visitor for Children and Young People
PACYPC	ACT Public Advocate and Children and Young People Commissioner
PBL	Positive Behaviour for Learning, part of the Bimberi Behaviour Management Framework
National Royal Commission	<i>Royal Commission into Institutional Responses to Child Sexual Abuse (December 2017)</i>
SMD	Special Management Direction
Tasmanian Royal Commission	<i>Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse (August 2023)</i>

Recommendations

Recommendation 1:

The ACT Government articulate a strategic purpose for Bimberi, and a corresponding model of care. This should be publicly available and developed through a comprehensive, transparent and inclusive consultation process. (see Executive Summary Theme 1)

Recommendation 2:

Bimberi develop risk assessment tools informed by its model of care, and emphasise that safety, rehabilitation, therapeutic interventions and dynamic security complement and reinforce each other. (see Executive Summary Theme 2)

Recommendation 3:

Bimberi improve compliance with its obligations under the *Human Rights Act 2004* by:

- a) Amending its decision-making processes to ensure human rights considerations are central to all key decisions involving detained young people. This recommendation is informed by findings on use of restraints, searching, Special Management Directions, loss of privileges arising from behaviour management, visits, and young people mixing.
- b) Work with the ACT Human Rights Commission to develop a strategy to embed a greater human rights culture at Bimberi over the long term. The strategy should include indicators that enable impact to be measured.

(see Executive Summary Theme 3)

Recommendation 4:

The ACT Government develop and fund a cross-Directorate strategic approach to young people accessing programs and services while at Bimberi, linking with a comprehensive youth justice throughcare program. (see Executive Summary Theme 4)

Recommendation 5:

The government implement the following recommendations from previous reviews of Bimberi as a priority:

a) Healthy Centre Review 2020:

- 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 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 detained young people 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.
- Recommendation 15 that the Community Services Directorate provide ongoing funding for allied health services in Bimberi.
- Recommendation 21 that the Education and Community Services Directorates establish an appropriate restricted internet platform to support the education of detained young people has not been completed.

b) 2023 NPM Isolation Review:

- Recommendation 2 regarding communication between young people and their lawyers.
- Recommendation 3 that young people are only ever isolated with legislated, legal safeguards such as access to review process.
- Recommendation 4 that Community Services Directorate ensure compliance with the Bimberi Emergency Operating Plan.
- Recommendation 10 that Bimberi provide young people a chair in their room.
- Recommendation 11 that Bimberi remove radicalised symbols.
- Recommendations 12 that the Community Services Directorate develop and maintain a consolidated register of Bimberi lockdowns of all categories, duration, location, reason, and number of children and young people affected, gender and Aboriginality on each occasion; and conduct regular compliance checks; to facilitate accountability and regular review by Bimberi senior management, and to allow effective external monitoring of the use of these restrictive interventions.
- Recommendation 13 that the ACT Government publicly report on time out of cells as a service delivery output as an indicator of governments' objective of providing a safe, secure and humane youth detention environment.

c) ACT Human Rights Commission's 2019 Report

- Recommendation 13a that there be a review of AOD services with a view to improving rehabilitation and counselling options for young people.

(see Executive Summary Theme 5)

Recommendation 6:

That the Community Service Directorate update the Custodial Inspector publicly every six months from the date the government response is tabled, on actions taken on each recommendation that has been agreed to, until the Inspector is satisfied the recommendation is closed. (see Implementation of this Review at 1.9)

Recommendation 7:

Canberra Health Services work with ACT Policing to devise a funded model which ensures a clinician assesses whether the health care needs of all young people coming through the Watch House can be met at the Watch House or Bimberi, or they should be taken to another facility such as a hospital. (see Health care Assessment in Custody at 2.2.2)

Recommendation 8:

That the Memorandum of Understanding between Community Services Directorate and Court Transport Unit should be reviewed and updated, including to address finding 10 in this Review. (see Transport at 2.2.4)

Recommendation 9:

Bimberi introduce a formal use of force review committee to review every use of force, which includes written terms of reference that focuses on reflective practice about whether the use of force complied with policy and procedures and opportunities for any other improvements. The Committee should include senior management and operational staff, as well as the Principal Practitioner and Training Manager. This Committee should seek views of detained young people involved in the use of force, with appropriate support from external agencies. (see Use of force at 2.3.3)

Recommendation 10:

In relation to searching, the ACT Government:

- a) Repeal s 246 of the CYP Act, thereby preventing any form of body/cavity search involving a child or young person.
- b) Expedite the procurement of body scanner technology at Bimberi, ACT Watch House and ACT court cells, and prohibit the use of strip searches in legislation. (see Searching at 2.4.1)

Recommendation 11:

That the ACT Government provide further resources to the Principal Practitioner's team at Bimberi to:

- a) Develop Support and Engagement Plans for the majority of young people detained in Bimberi (whose detention is longer than a few days)
- b) Ensure greater linkages with NDIS supports; and
- c) Provide enhanced allied health support to young people (see Detained young people with disability at 3.2.5)

Recommendation 12:

ACT Government commit to work with an Aboriginal Community-Controlled Health Organisation to further progress a culturally safe and competent service at Bimberi. (see Health at 3.3.4)

Recommendation 13:

Bimberi cease the practice of locking down the Centre after every emergency code. (see lockdowns at 4.1.2)

Recommendation 14:

Bimberi reinstate the practice that all young people are entitled to physical contact with visitors, unless an individualised risk assessment has been undertaken, which properly balances all relevant factors and gives proper consideration to human rights. (see Visits at 5.1.1)

Recommendation 15:

The Community Services Directorate should ensure there is a clear framework to prioritise the development of transition plans, whether through the Care Team meeting or other forums. There should be clear accountability measures. (see Reintegration Planning at 5.3.1)

HEALTHY CENTRE REVIEW OF BIMBERI



What we heard from young people



Incentives



- Always start on lowest level
- 1 month to review level
- Access to purchases is not fair
- You have to reach 75% of you weekly goals for a month to move up a level
- It takes a long time to get shoes
- Small slip up can set you back 3 weeks
- Loss of privileges - not fair to lose purchases

Contact with family & friends



- Can't hug your family at visits, want to change this
- Youth worker stands close when you have a visit
- No privacy
- Some young people prefer box visit because they're more private
- Would go back to contact visits if you could hug your family
- Phone calls only last 10 mins, have to wait 30 mins to call back
- Short calls make it hard to have a proper conversation with someone
- 20 calls per week is not enough for some people

Mixing



- It's hard only mixing with 1-2 other people
- Units are small, you get agitated
- Little things start to annoy you
- Affects your mental health
- Hard to socialise when you get out
- Hard to start conversations with family & friends

Codes & lock-downs



- Codes happen a lot
- Feel like everyone gets punished
- Big focus on security
- Don't understand why everyone gets locked in for every code
- Code lockdowns can go for hours
- Would be good to have a response team
- Stay locked in while staff do paperwork
- Learn about codes & who caused them from staff
- Overnight lockins are long
- Multiple codes per day + overnight lockin = long time alone in a cell

Food



- Not enough food for some
- Get hungry overnight
- Can't have food in cells
- Mixed views on food
- Consultation on the menu didn't result in change
- Tuesday & Sunday breakfast in cells - cereal & milk

Education & Programs



- Education is really good
- Art & woodwork are good
- Yurana Centre (CIT) is good
- Can't use certain equipment if on different privilege level to others in class
- Don't get education packs in the unit
- Can't take books or schoolwork into cells unless approved
- Gym is good
- When there is a code you miss out on education

Staff



- Some staff are good
- Some are on a power trip
- Can be told to do something but get in trouble for doing it by other staff
- No consistency
- Feels like some staff deliberately mess with you
- Waiting for 'good' staff to be on before asking for things you need

Other comments

Want to have own music

Get cold in cells

Don't make complaints or suggestions - what's the point?

Mattresses are uncomfortable

All the units should have kitchens

Bimberi shoes are uncomfortable

Maintenance things take a long time to get fixed

Executive summary

The ACT Office of the Inspector of Custodial Services (OICS) is pleased to present its second Healthy Centre Review of Bimberi Youth Justice Centre (Bimberi), operated by the ACT Community Services Directorate (CSD)

OICS carries out its reviews against published criteria known as the [ACT Standards for Youth Detention Places](#) (Review Standards). Our assessment of Bimberi's performance against OICS standards resulted in several issues emerging. In summary, the Review Team found there are solid foundations in place at Bimberi. There are many staff across multiple directorates (and from outside Government) committed to providing the most therapeutic environment possible for young people within a detention setting, often through collaborative work. Cross-directorate collaboration was found to have improved from findings in earlier reviews.

Positive Practice

This Review highlights many positive and promising practices at Bimberi and identifies many areas where the Centre meets standard. These include:

- Greater cross-directorate collaboration including in shared meetings, efforts to align behavioural management tools and the development of Support and Engagement Plans by the Principal Practitioner to be used across the Centre.
- Many staff demonstrate a commitment to therapeutic outcomes for detained young people.
- Sufficient staffing resources are in place to meet Bimberi's current model of care.
- The work of the Support and Services Team including the Family Engagement Officer and Principal Practitioner in engaging with young people and supporting young people to engage with their families.
- Young people spoke positively about their time in education at the Murrumbidgee Education and Training Centre (Murrumbidgee School)
- Many non-government service providers are providing programs and support to improve the experiences of detained young people, although often without specific funding.
- The health service at Bimberi meets the ongoing primary health and acute mental health needs of young people through an appropriate range of care services.
- The emerging presence of Justice Health Aboriginal Liaison Officers (ALOs) onsite.
- The physical design of Bimberi being campus style accommodation, and location proximate to Canberra community aligns with good practice design for youth detention.¹

However, these positive developments are hampered by the present operating environment that emphasises physical and procedural security.² Further, there is a spectrum of approaches to assessing and responding to risk by various staff, particularly Youth Detention Officers.

¹ M Dwyer and S Oostermeijer, A Model of the Design of Youth Custodial Facilities: Key Characteristics to Promote Effective Treatment; in D Moran et al (eds) *The Palgrave Handbook of Prison Design* (Palgrave Macmillan, Cham, 2023) 339. Discussed further in Appendix 2.

² As compared to key characteristics of best-practice identified by Dwyer and Oostermeijer such as relational security, and interventions grounded in a therapeutic approach.

On 26 August 2019, a major incident occurred at Bimberi which was described by the media as a “riot”.³ CSD commissioned an external review and the matter was also investigated by WorkSafe ACT. It is understandable that in light of these reviews, the Centre has a strong focus on a culture of staff safety.

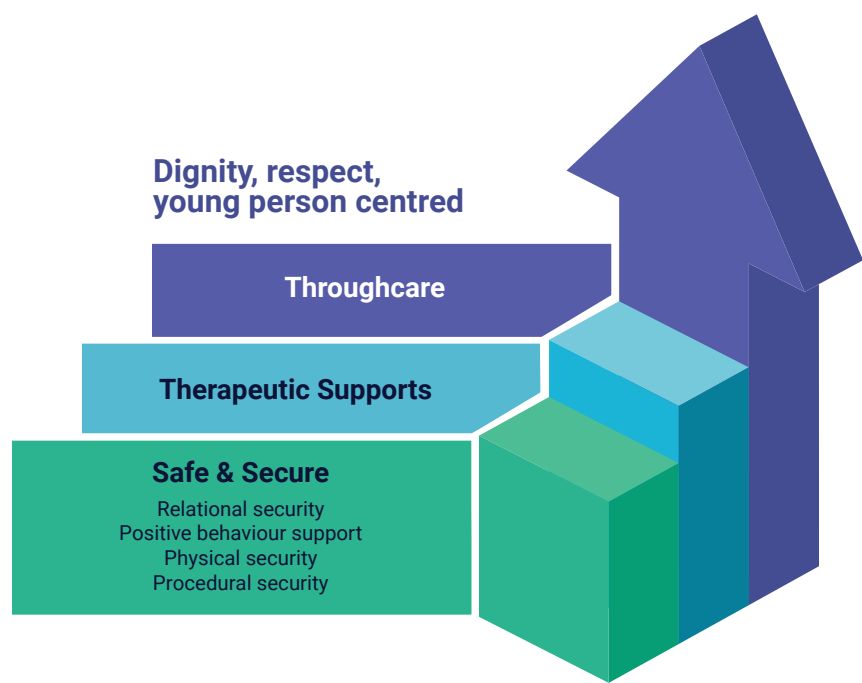


Diagram: Foundations for greater therapeutic supports at Bimberi

Instances of staff using force are trending down since 2019 (however a contributing factor may be Bimberi’s practice of limiting mixing of certain young people on security grounds) and even with fluctuations in numbers of detained young people, the Review Team considers that the Centre is adequately staffed for the current model of care.

However, the Centre’s approach to risk assessment is resulting in physical security outweighing and/or detracting from the emotional and social wellbeing of detained young people. This also undermines attempts at consistently implementing more therapeutic approaches across all aspects of treatment and care of young people.

The Review Team appreciates that the Centre is managing complexities in the mixing of young people, but reflects that many of these practices are more restrictive than those at maximum security adult prisons, including the Alexander Maconochie Centre (AMC). At the AMC, for example, physical contact including a kiss and hug is permitted between a detained person and their visitors, particularly at the start and end of a visit. As a general rule, this is not permitted at Bimberi.

3 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>.

This approach also exacerbates the inherent tension in the role of Youth Detention Officers, who must attempt to build rapport with young people but also may have to use force and restraint on young people. Other, more therapeutic focused approaches exist and provide compelling examples including in outcomes related to reducing reoffending. Models like Diagrama (Spain), staffed primarily by therapeutic workers – with just a few staff focused on security – have much to offer for the ACT context. A transition to this model could occur in the next 5 to 10 years, particularly in light of other reforms to the ACT youth justice system. Similarly, Scotland has recently implemented law reform to cease the detention of 16 and 17-year-old young people in custodial facilities.⁴

Bimberi obviously has no control over who is detained in custody. A very high proportion of young people at Bimberi at any one time are on remand, and mostly for a very short time (from January – June 2024, for example, the median remand period at Bimberi was 1 day). The review team notes certain legislative changes and community-based supports could reduce the number of young people on remand for short periods. This may lead to better outcomes for young people and the community, as evidence shows that the earlier a young person comes in contact with the youth justice system, the more likely they are to reoffend.⁵

Nevertheless, the Review Team is concerned that almost no young people are leaving the centre for training, education and work which is limiting opportunities to build positive community connections, rehabilitation and preparation for release. In turn, it may well be a factor contributing to the same young people coming back to Bimberi after a short time in the community. During the 6-month focus of this review, of the 87 young people released from custody in this period, 32 individual young people returned to custody after release. This represented 63 re-admissions. This suggests existing approaches are not working for these young people. It is a relatively small group for whom a different approach to supporting and keeping them out of detention is needed.

Detention of young people should always be a last resort and for the shortest possible time because:

... a period of incarceration interferes with factors generally thought to promote desistance from offending including links with community, family ties, employment, education and housing. Many young people released from juvenile justice detention, as a result...are ill equipped to form stable interpersonal relationships, learn resilient coping strategies, avoid antisocial peer influences and engage in training and education essential for economically independent and law-abiding pathways...juvenile justice detention is often referred to as doing more harm than good and is considered a criminogenic risk factor in and of itself, further entrenching young people into disadvantage.⁶

If detention must occur, it is a crucial opportunity to link young people with strong community supports that can continue upon release.

4 Discussed at Appendix 2.

5 See, eg, Victorian Sentencing Advisory Council, *Reoffending by Children and Young People in Victoria* (Report, 15 December 2016).

6 Matthew Dwyer and Sanne Oostermeijer, 'Keeping Kids Close – Can Juvenile Justice Detention be a place of healing?' in Kate Bishop and Katina Dimoulis (eds), *The Routledge Handbook on the Influence of Built Environments on Diverse Childhoods* (Routledge, 2024) 352, 354.

Bimberi's model of care

This report discusses in detail the strategic purpose of Bimberi and how that is implemented in its day-to-day operations. This may be described by various terms, but this report prefers the term 'model of care'. For the purposes of this report, Bimberi's model of care is the operating philosophy that guides how staff and others care for young people at Bimberi. It includes the purpose of the centre, its operating philosophy and how these inform its staffing profile, its policies and procedures, the programs and services it provides, and perhaps most importantly, the factors it considers in making key decisions including risk assessment and human rights.

Bimberi has the potential to be a place where therapeutic approaches drive practice and operations across all areas. At all levels and areas, the Review Team heard from staff open to implementing a more therapeutic model of care across the whole centre, augmenting and standardising the pockets of therapeutic approaches.

Quotes from young people:

What is one of the best things about Bimberi?

"Education is really good, we get to do our year 10 certificate, woodwork and art, they do individual tests with us to see what we can do."

What is something that could be improved at Bimberi?

"Codes feel like everyone gets punished because of what one person has done, there should be a response team."

"Why can't they just have the person that caused the code locked in and others can keep doing what they are doing."

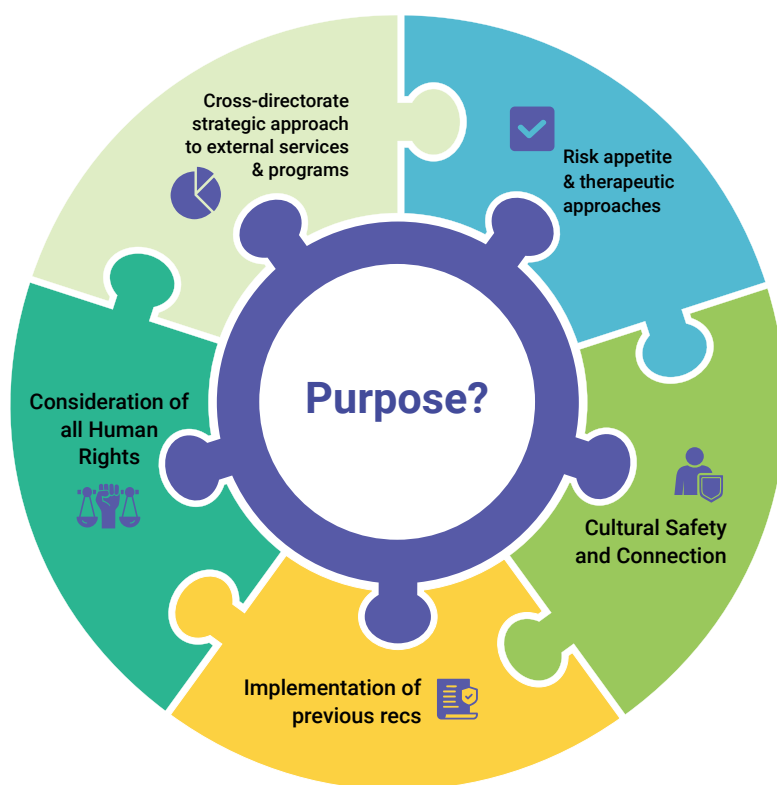
Quotes from staff:

What is the best thing about working at Bimberi?

"Working amongst passionate professionals from a range of different backgrounds and seeing their commitment to supporting young people."

What is one thing that could be improved at Bimberi?

"More trauma-informed and mental health education and practices by BYJC staff (including Youth Detention Officers) to ensure clear, consistent, and trauma-informed approaches by staff – particularly regarding behaviour management and consistent responding to young people."



Theme 1: Bimberi's purpose

OICS Review Standards require the Centre to have a strategic vision that informs a comprehensive plan of the youth detention centre's general aims, principles, values and strategic action.

In considering international best practice in models of care for youth detention, Oranga Tamariki – the New Zealand Ministry for Children – observed that while youth detention facilities are different depending on the country, common requirements are that the purpose of youth detention needs to be clear, and explicitly shape the service design and performance monitoring.⁷

The Review Team observes that there is no clear, concise articulation of Bimberi's purpose by government. When Bimberi staff were asked about Bimberi's purpose, responses varied. For example:

"To contribute positively in aiding the young people in our care to understand their worth, that they have a place in the society, that they are loved and cared for, and to assist them in building the basic life skills to help them be better people and how to socialise in the community appropriately and to build on and hold onto 'Hope' throughout their lives."

Which contrasts with another response:

"The Purpose of Bimberi is to provide a safe environment for YP [young people] while awaiting their court dates."

⁷ Oranga Tamariki – the New Zealand Ministry for Children, *Youth justice residences – best international practice evidence reviews*, (Summary Report, 8 June 2023) 3.

The Review Team consider that many of the other themes that emerge from this Review can be traced back to the lack of clear vision and purpose for Bimberi.

It appears that the ACT Government intends for the Centre's purpose to go beyond simply keeping young people and staff physically safe (while clearly a minimum requirement). Articulating its purpose in a strategic document would serve to guide practices in a therapeutic direction. For example, the therapeutic value for young people in being able to hug their families at visits would be given a different priority than it is at present. It may also drive a pro-active approach to young people, sentenced or remand, being able to leave the centre during the day to attend training or work (subject to an individualised assessment). Key developments, such as the ACT raising the age of criminal responsibility and international standards setting the minimum age of detention to 16-years-old, also mean it is opportune for the ACT Government to be considering Bimberi's role in the broader system.⁸

Recommendation 1:

The ACT Government articulate a strategic purpose for Bimberi, and a corresponding model of care. This should be publicly available and developed through a comprehensive, transparent and inclusive consultation process.

Theme 2: Risk assessment and therapeutic approaches

The Review Team saw many positive practices at Bimberi, for example, staff from CSD, Health and Education engaging positively with young people. Collaboration across these directorates has strengthened since the Healthy Centre Review 2020.

The Review Team also observed a well-functioning control room which coordinates operations across the Centre.

Serious incidents and uses of force area also trending down.

However, the emphasis on physical safety is having a significant impact on the mental health and wellbeing of young people and their families, and misses opportunities for young people to foster positive social and emotional connections with staff, families, and potentially community based support networks. For example:

- The presumption of no physical contact at visits, with Youth Detention Officers closely monitoring young people and their visitors, runs contrary to a therapeutic, rights-based, child-centred approach. As a result, young people frequently opt for non-contact 'boxed visits' for privacy. This presumption against physical contact with loved ones is unacceptable and cannot be justified in a human rights jurisdiction. Visits should be a place of support, connection and healing and limitation on contact should only ever be done on the basis of an individualised evidence-based risk assessment.
- The failure to use the outdoor visits space including the children's play equipment to support connection with detained young people and younger siblings.
- Young people told us limited mixing has an impact on their wellbeing, socialisation, and confidence, which can heighten tension in the Centre.

⁸ From 2025 onwards, the age of criminal responsibility in the ACT will be raised to 14 years old. The United Nations Committee on Rights of the Child also advises that no child aged under 16 years old should be held in detention: Committee on the Rights of the Child, General comment No 24 (2019) on children's rights in the child justice system, UN Doc CRC/C/GC/24 (18 September 2019) 14.

- Generally, leave permits for young people to spend short periods out of the centre are only sought (and approved) for health appointments, and physical restraints are used as a standard measure whenever a young person is out of the Centre.
- Various staff, young people and service providers noted the inherent tension in the role of Youth Detention Officer between building rapport with young people and using physical force on young people. Staff told the Review Team that it is very difficult to build trust with young people when there is a possibility that you need to use force to restrain them.

Ultimately a Centre with a greater emphasis on therapeutic outcomes is safer for the community, as reoffending (or offending post-release from remand) is reduced, as demonstrated by models such as Diagrama discussed at Appendix 2. Data indicates a relatively small group of young people are cycling in and out of the Centre, apparently re-offending despite their time at Bimberi.

Recommendation 2:

Bimberi develop risk assessment tools informed by its model of care, and emphasise that safety, rehabilitation, therapeutic interventions and dynamic security complement and reinforce each other.

Theme 3: Consideration of human rights

Since opening, the government has consistently described Bimberi as a 'human rights compliant' facility. In the Review Team's view this is a hollow statement. The *Human Rights Act 2004* (HR Act) creates a legal obligation on all public servants, including Bimberi staff, to act and make decisions compatibly with human rights, and give proper consideration to human rights in decision-making.

While human rights are referred to in many notified policies, it is clear that a human rights-based approach to decision making is not embedded in decision making practice. A key example of this is the decision to continue the COVID-era practice to prevent physical contact between young people and their family at visits on safety and security grounds (instead of the COVID-era health grounds) without conducting any human rights assessment.

This obligation to give proper consideration to human rights requires a decision maker to have seriously turned their mind to the possible impact of the decision on an affected person's human rights and the implications for that person; and to identify the countervailing interests or obligations.⁹

The Review Team saw several examples of a failure to document 'proper consideration' in making key day to day decisions about individual young people:

- In the case of an emergency code being called, while the policy provides for the Warden to exercise discretion in how it is managed (including if a centre-wide lock down is required), in practice all codes, regardless of seriousness or severity, result in the entire centre being locked down. A human rights-based approach would entail considering whether it was a proportionate response to lock the entire centre down given its impact on young people, or if a less restrictive approach is possible. This is discussed further at section 4.1.2.

⁹ *Davidson v Director-General, Justice and Community Safety Directorate* [2022] ACTSC 83; *Castles v Secretary, Department of Justice* [2010] VSC 310; *Hakimi v Legal Aid Commission* [2009] ACTSC 48 *Owen-D'Arcy v QCS* [2021] QSC 273.

- Key template forms often do not prompt staff to consider human rights, or if they do, may not be correctly filled out. For example, the Review Team saw forms completed by staff for strip searches that stated no rights were limited in staff undertaking a strip search. This is a practice that clearly impacts on the rights of young people, and it is important that staff consider before undertaking a strip search if it is really required, or if less restrictive measures would meet a legitimate objective.

Integrating human rights considerations in decision making requires leadership, training and support to assist staff to embed human rights into their work. Beyond the short session on human rights for new recruits presently conducted by the ACT Human Rights Commission, more must be done to embed a human rights culture at Bimberi. This may include specific initiatives to enhance in-house capacity, tailoring ongoing training to the detention setting, as well as changing procedures and forms to prompt consideration of human rights at the outset. The Review Team acknowledges that the ACT Human Rights Commission may require additional resources to engage in this work, and that the Office of the Commissioner for Aboriginal and Torres Strait Islander Children and Young People should be consulted about cultural rights for Aboriginal and Torres Strait Islander young people.

Recommendation 3:

Bimberi improve compliance with its obligations under the *Human Rights Act 2004* by:

- a) Amending its decision-making processes to ensure human rights considerations are central to all key decisions involving detained young people. This recommendation is informed by findings on use of restraints, searching, Special Management Directions, loss of privileges arising from behaviour management, visits, and young people mixing.
- b) Work with the ACT Human Rights Commission to develop a strategy to embed a greater human rights culture at Bimberi over the long term. The strategy should include indicators that enable impact to be measured.

Theme 4: Cross-directorate strategic approach to external services and programs

Young people must be encouraged and supported to access a range of evidence-based programs that promote social reintegration and personal development, and address behaviours which may contribute towards their offending. The Review Team observed pockets of positive practice in relation to the provision of programs. Bimberi's Support and Services Team regularly considers new potential programs and are mindful of the relevance to the needs of young people detained in Bimberi. The Murrumbidgee School also integrate a range of activities and external services into the school program for young people.

Formal opportunities for inter-Directorate collaboration in Bimberi (such as the Client Services Meeting and Intensive Client Management Group) are driving collaboration and shared decision making. Collaboration has improved since OICS' Healthy Centre Review 2020.

However, a major deficiency identified was the lack of a strategic approach to bringing in external service providers to Bimberi to provide general programs.

For example, there are no clear priority areas and prioritisation of programs. Many existing programs visit the Centre due to a prior connection to someone at Bimberi rather than as part of any strategic approach.

Similarly, there is a lack of sufficient and discrete funding for Bimberi to broker external programs to be delivered. Services funded to support children and young people in the community should not be automatically expected to provide the service in Bimberi, particularly at the times when Bimberi most needs these programs (eg outside of school hours and school holidays).

While there are examples of collaboration between Education, Health and CSD, particularly in relation to accessing services for individual young people, there is not the same approach to programs aimed at detained young people generally. Key community health organisations, such as the Junction Health Service and Winnunga Nimmityjah Aboriginal Health and Community Services (Winnunga) should be engaged directly for regular visits to Bimberi, rather than on an ad hoc basis.

The Justice and Community Safety Directorate (JACS) provides funding for programs potentially relevant to young people at Bimberi, but the Review Team saw limited collaboration between JACS and other relevant directorates on planning such programs.

This situation is not helped by multiple examples of apparently successful ‘pilot’ programs that have not been funded on a continuous basis, such as the establishment of an allied health team at Bimberi (discussed at 3.2.5), Sunday bail court (discussed at 3.2.1) and throughcare (discussed at 5.3.5). Unfortunately, this is a common issue for the youth justice system across Australia.

The unpredictability of funding can also contribute to attrition. For example, programs are sometimes piloted and then can disappear entirely, meaning the skills of staff, community linkages and accumulated body of practice experience are permanently lost. Similarly, when there are government delays in decision-making about the future of projects, staff and resources can be lost. This issue led some stakeholders to suggest that reform will be difficult because capacity is not widely available.¹⁰

At the time of the review there was still no embedded and sustained throughcare program at Bimberi, and without this, it is particularly difficult for Bimberi to strategically identify suitable programs and service providers. Nor do young people have sufficient opportunities to leave the centre to access programs. At the time of writing, the design of a throughcare system for ACT Youth Justice was underway.

Recommendation 4:

The ACT Government develop and fund a cross-Directorate strategic approach to young people accessing programs and services while at Bimberi, linking with a comprehensive youth justice throughcare program.

Theme 5: Implementation of previous recommendations

Bimberi has been the subject of several reviews over the past five years by different oversight entities. These have resulted in many recommendations, the majority of which the government has accepted. However, as at June 2024, many of these have not been fully implemented. Where a recommendation from a previous review has not been implemented (whether or not the recommendation was accepted by government) and remains relevant, this review calls for its implementation.

¹⁰ Australian Human Rights Commission, ‘Help way earlier!’. *How Australia can Transform Child Justice to Improve Safety and Wellbeing* (Report, 2024) 106.

Recommendation 5:

The government implement the following recommendations from previous reviews of Bimberi as a priority:

a) Healthy Centre Review 2020:

- 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 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 detained young people 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.
- Recommendation 15 that the Community Services Directorate provide ongoing funding for allied health services in Bimberi.
- Recommendation 21 that the Education and Community Services Directorates establish an appropriate restricted internet platform to support the education of detained young people has not been completed.

b) 2023 NPM Isolation Review:

- Recommendation 2 regarding communication between young people and their lawyers.
- Recommendation 3 that young people are only ever isolated with legislated, legal safeguards such as access to review process.
- Recommendation 4 that Community Services Directorate ensure compliance with the Bimberi Emergency Operating Plan.
- Recommendation 10 that Bimberi provide young people a chair in their room.
- Recommendation 11 that Bimberi remove radicalised symbols.
- Recommendations 12 that the Community Services Directorate develop and maintain a consolidated register of Bimberi lockdowns of all categories, duration, location, reason, and number of children and young people affected, gender and Aboriginality on each occasion; and conduct regular compliance checks; to facilitate accountability and regular review by Bimberi senior management, and to allow effective external monitoring of the use of these restrictive interventions.
- Recommendation 13 that the ACT Government publicly report on time out of cells as a service delivery output as an indicator of governments' objective of providing a safe, secure and humane youth detention environment.

c) ACT Human Rights Commission's 2019 Report

- Recommendation 13a that there be a review of AOD services with a view to improving rehabilitation and counselling options for young people.

Theme 6: Ensuring Bimberi is culturally appropriate

OICS's Review Standards require that the distinct cultural rights of Aboriginal and Torres Strait Islander detained children and young people are realised. In many respects, cultural rights and safety cuts across other themes: cultural rights of Aboriginal and Torres Strait Islander peoples are protected in the HR Act, and must be considered by Bimberi staff in their decision-making; cultural programs must form a key part of the external services that come into Bimberi; and previous reviews have discussed and made recommendations about Aboriginal and Torres Strait Islander peoples' culture. Staffing is important in that there are Aboriginal and Torres Strait Islander staff, as well as general staff training in cultural awareness, preventing discrimination and identifying the needs of Aboriginal and Torres Strait Islander young people.

Bimberi staff complete a Cultural Development Program on induction which amounts to 2 days training including a walk on country and cultural planning.

Bimberi is taking some steps to support the cultural needs of Aboriginal and Torres Strait Islander young people. The Youth Aboriginal Corporation, Gudan Gulwan, has a long-standing relationship with the Centre and visits regularly to deliver an art program. An Aboriginal academic and writer from the Australian National University (ANU) College of Arts and Social Sciences visits weekly to provide creative writing classes. The Canberra Institute of Technology's (CIT) Yurana Centre attends Bimberi, which can provide a valuable opportunity for a young person to stay engaged with education after release, but are not specifically funded to do this.

Detained young people also speak positively of the Family Engagement Officer, which is an identified position and plays an important role in maintaining cultural connection for detained young people. A Transitions Officer position within the Murrumbidgee School at Bimberi provides a key connection between Bimberi and reconnecting with education and work in the community.

The Review Team also heard positive feedback about the relatively recent presence of the JHS Aboriginal Liaison Officers (ALOs) onsite. During the review period both male and female ALOs began visiting the Centre more regularly.

There is further interest from Aboriginal Community Controlled Organisations (ACCOs) to engage with and support young people at Bimberi. Suitable resourcing for them to do so must also be provided

However, the Review Team found significant gaps in current practices

- Beyond their art program and school holiday programs, there are potentially greater opportunities for Gudan Gulwan to remain connected to detained young people that may be part of their community-based programs prior to coming into custody.
- Many of the existing service providers are not funded to provide specific services to Bimberi and do so out of a strong commitment to detained Aboriginal and Torres Strait Islander young people. These services should be properly resourced and funded given the important work they do.
- There is no ongoing relationship with Winnunga and their engagement to date has often been ad hoc and not in a capacity to provide health care directly to detained young people.
- There is no Elders program for Bimberi, which is a missed opportunity to have detained young people remain connected to culture and benefit from community mentors.
- Some Aboriginal and Torres Strait Islander service providers would like to work solely with Aboriginal and Torres Strait Islander young people, but the Review Team understands there is an expectation that they work with all detained young people.

- The Justice Health Aboriginal Liaison Officer team requires further resources to continue engaging regularly with the Centre.
- During the review period, the yarning circle and fire pit at Bimberi had fallen into disrepair and were rarely used. As at June 2024, the Spiritual Centre was not used regularly either.
- CYPS develops cultural plans for children and young subject to care and protection orders, but these are not routinely shared with Bimberi.
- Despite a recommendation, which was accepted by government, in the 2023 NPM Isolation Review to remove radicalised symbols (such as Nazi Hakenkreuz), a significant number of Nazi hate symbols were observed scratched into windows and other surfaces. The Review Team was particularly concerned in Coree (admissions) unit to see prominent symbols where Aboriginal young people as young as 12 years old spend their first night(s) in custody.

The impact of children being unable to hug their family during visits must be viewed through a cultural lens. The ACT Commissioner for Aboriginal and Torres Strait Islander Children and Young People has noted physical contact is of paramount importance for Aboriginal and Torres Strait Islander children and young people in detention:

These forms of physical and emotional touch not only provide comfort and reassurance but also play a significant role in healing past traumas and building resilience. For individuals who have often experienced a sense of disconnection and isolation due to historical injustices and ongoing systemic inequalities, these moments of contact can be transformative. The absence of meaningful contact within these settings perpetuates the cycle of trauma and disconnection, leading to devastating impacts on individuals' mental health and sense of identity.

This is further compounded for the many Aboriginal and Torres Strait Islander Children and Young People who are also subject to care and protection orders, often indicating there is a story of disconnection, removal and separation.

Finding 1:

Recommendations 13 and 14 of Healthy Centre Review 2020 regarding cultural rights were agreed to by Government but have not been fully implemented. They remain relevant and necessary:

- 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.
- 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.



CHAPTER 1

Introduction



1. Introduction

1.1 Authority for this review

1.1.1 Legislation

The Office of the ACT Custodial Inspector (OICS) was established with the passage of the *Custodial Inspector Act 2017* (CI Act) and oversight of Bimberi commenced in late 2019. Under section 18(1)(a)(ii), OICS is required to examine and review Bimberi at least once every three years. This is the second review conducted under that section.

1.2 Review standards

OICS conducts reviews against published criteria known as Standards. This review was conducted against OICS ACT Standards for Youth Detention Places.

The Review Standards provide an independent tool for OICS to examine whether the ACT's youth detention centre and services meet the 'healthy centre' test which is based on four principles:

- Safety: detained young people, 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, which for detained young people includes acting in the best interests of the child.
- Purposeful activity: detained young people engage in activity that is likely to benefit them.
- Rehabilitation and prepared for release: detained young people are supported to connect with their family and the community; supported to rehabilitate; and prepared for release.

Under each pillar there are detailed standards and indicators. This was used to guide the Review Team when conducting this review of Bimberi and the standards are referred to throughout this report. OICS updated its previous 'interim' version of the ACT Standards for Youth Detention Places for this review. The final version is available on our website at www.ics.act.gov.au.

The Optional Protocol to the Convention Against Torture – ACT’s National Preventive Mechanism

The *Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) is a United Nations Treaty that aims to prevent torture and ill-treatment in all places where people are, or may be, deprived of their liberty.

In January 2022 the ACT OICS, along with the ACT Human Rights Commission and the ACT Ombudsman, were designated as the ACT National Preventive Mechanism (NPM) under the OPCAT. The ACT NPM are jointly responsible for visiting places of detention in the ACT, with the aim of strengthening protections against torture and ill-treatment.

Members of the Review Team joined colleagues from the ACT Ombudsman and Commonwealth Ombudsman’s office on their visit to the ACT Police Watch House in February 2024. This is an example of the benefits of OPCAT’s preventative approach and the visit provided the opportunity for the Review Team to observe the treatment of young people at the Watch House. This provided the Review Team with a deeper understanding of the journey of young people through the legal system and their experience of detention.

1.3 Limitations of this review

Due to the focus of recent reviews conducted by Mr Peter Muir (2019) and WorkSafe ACT (2020) on security, the Review Team did not examine this matter in-depth. Further, in July 2023, OICS undertook a thematic review into the isolation of detained young people, which resulted in OICS’ *Thematic Review of a Correctional Service: Isolation of children and young people at Bimberi Youth Justice Centre* report (2023 NPM Isolation Review). Therefore, segregation and isolation were also not a specific focus of this Report.

The Review Team conducted a survey to all ACT Government staff working at Bimberi via a link distributed to staff ACT Government email addresses. There were insufficient responses (n=31 out of n=169) for the results to be considered statistically representative of the Bimberi staffing population. As a result, the survey and results have not been included in this report, however the comments of individual staff are cited where relevant as examples only. The Review Team took into account all staff comments, and also engaged with staff through meetings and informally when onsite.

1.4 Language and terminology

In this report we adopt the terms “detained young person”, “Youth Detention Officer” and “cell” rather than Bimberi nomenclature (“young person”, “youth worker” and “cabin”) as more plain descriptors which are potentially less confusing to the lay person. We acknowledge that “detained young person” 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 for which they are in Bimberi.

1.5 Human rights applicable to Bimberi

The HR Act sets out the human rights which are recognised and protected in the ACT. The Review Team has considered rights relevant to detained young people, staff and families. Everyone working, living or visiting Bimberi enjoy 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 detained young people are:

- protection of the child (s 11(2)), which is also protected in the *Children and Young People Act 2008* (CYP Act).
- right to privacy (s 12).
- right to humane treatment when deprived of liberty (s 19) and protection from torture, and cruel, inhuman or degrading treatment (s 10).
- 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).

Staff rights must also be considered including:

- rights to security (s 9) and to life (s 9), including to work in a safe working environment, which is also protected in the *Work Health and Safety Act 2011* (s 9).
- right to equality (s 8) which includes protection for staff from discrimination.
- Freedom of expression including the right to receive and impart information, such as through consultation processes (s 16).¹¹

The HR Act recognises the family as the basic unit of society (s 11). This right is most likely to be engaged in relation to phone calls, correspondence and visits between family members and young people at Bimberi.

These rights are not necessarily competing:

- Evidence shows that a supportive, therapeutic environment for young people is one that not only best realises their rights, but is also more respectful and consistent with the rights of staff, and in which staff are most able to achieve their duties and aspirations.¹²
- 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.

Relevant human rights are considered throughout this report.

¹¹ These rights are informed by international standards such as the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) which require that 'the proper management of detention facilities depends on their integrity, humanity, ability and professional capacity to deal with juveniles, as well as personal suitability for the work'. The UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) also require that staff in youth justice reflect the diversity of young people who come into contact with the system, and that efforts be made to ensure the fair representation of women and minority groups in youth justice agencies.

¹² ACT Human Rights Commission, *The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission* (Report, July 2011) 302.

1.6 About the ACT Youth Justice System

At the time of this review, the ACT Government's Administrative Arrangements provided that the Minister for Children, Youth and Family Services is responsible for 'youth justice policy and services' with the relevant administrative unit being the Community Services Directorate (CSD).¹³ CSD was also the administrative unit responsible for the related areas of child and youth protection policy and services, and child, youth and family policy and services.

The Attorney-General was the Minister responsible for the wider justice system, including administration of justice, civil and criminal law, reducing recidivism and justice reinvestment. The relevant administrative unit was the Justice and Community Safety Directorate (JACS). In its response to this review, JACS noted:

While JACS has responsibility for the wider justice system, which includes elements related to children and young people, JACS corrections related programs and service delivery are focused on adults.

Nonetheless, the Review Team considers that JACS administrative responsibility for reducing recidivism and justice reinvestment are particularly relevant to this review. Justice reinvestment in the ACT aims to support a fair and sustainable criminal justice system. It focuses on improving justice outcomes by preventing and reducing offending and reoffending, and lowering rates of incarceration'. Justice reinvestment in the ACT includes:

- Supporting early prevention and diversion programs that address issues including social isolation and disadvantage, inadequate housing, alcohol and drug misuse, lack of employment and intergenerational trauma.¹⁴

1.7 About Bimberi Youth Justice Centre

Bimberi is the ACT's only youth detention facility (although children and young people can be detained in other places such as the Watch House or court cells). At the time of the review it accommodates children and young people from age 12 to 21 years who have been refused bail or sentenced to a period of detention.

Child and Youth Protection Services (CYPS) in CSD has administrative responsibility for Bimberi. Primary health services and forensic mental health services are provided by Mental Health Justice Health and Alcohol and Drug Services (MHJHADS) within Canberra Health Services. The Education Directorate is responsible for delivering education to detained young people through Murrumbidgee School, which is onsite and part of the Directorate's Flexible Education unit.

Bimberi's physical infrastructure can accommodate up to 40 detained young people in four separate accommodation units. Bimberi is funded for sufficient staff to manage 22 young people.¹⁵ Young people are detained in single cells, each with bathroom facilities. Each unit contains communal spaces, laundry, common area and courtyard. One wing of one unit (Bendora) has a functioning kitchen. The remaining units and wings have only a sink and taps in an alcove.

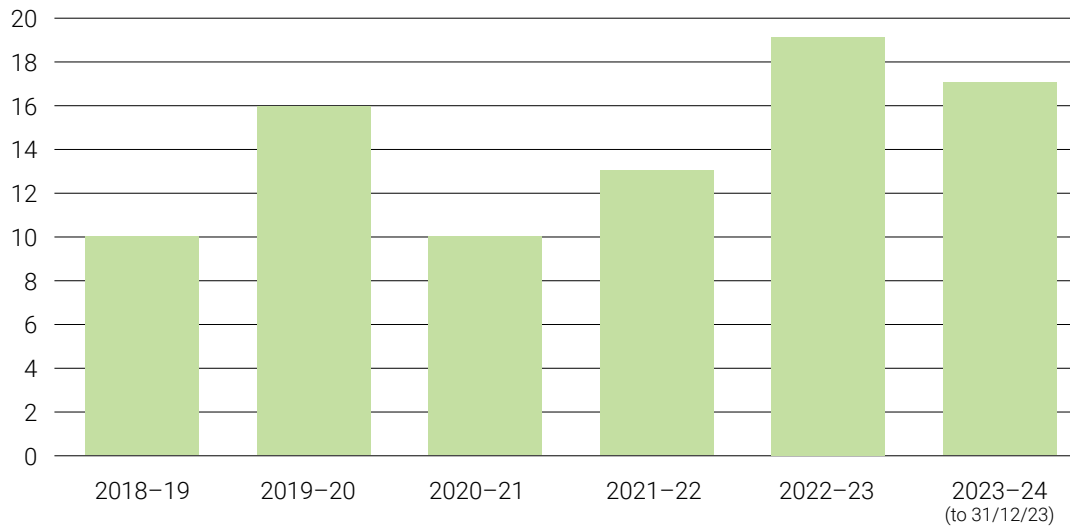
¹³ Administrative Arrangements 2023 (No 1).

¹⁴ 'Justice Reinvestment', ACT Justice and Community Safety Directorate (online) <https://www.justice.act.gov.au/justice-programs-and-initiatives/reducing-recidivism/building-communities-not-prisons> (accessed September 2024).

¹⁵ Funding was provided for 6 additional staff (40 beds) for 18 months, expiring in December 2024.

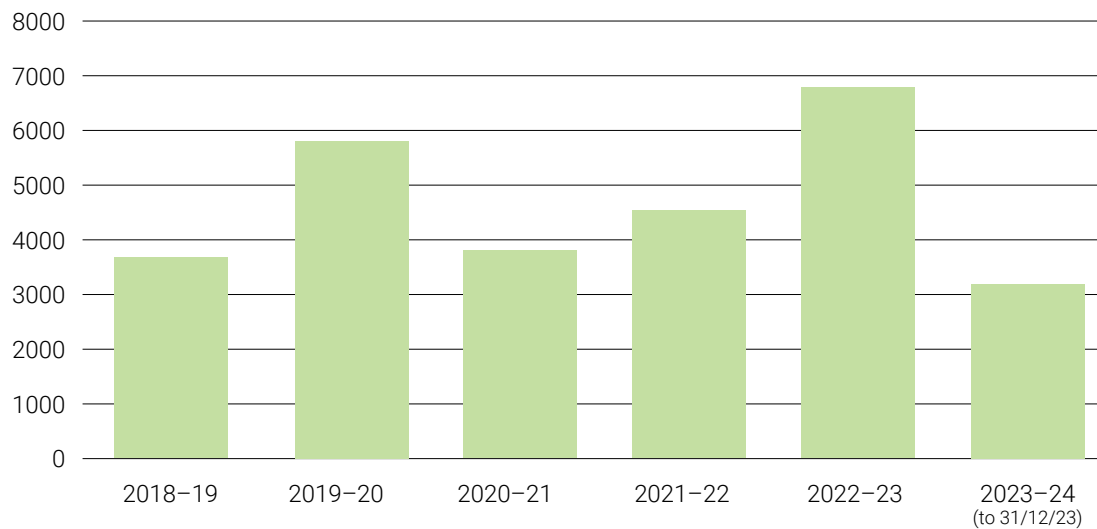
Data from CSD shows the average number of young people detained at Bimberi in the 23/24 financial year to December 2023 was 17, and this has increased slightly from when OICS did the Healthy Centre Review 2020.

Figure 1: Number of young people in Bimberi on average day



Average daily state at Bimberi, 2018-2024
Source Bimberi Headline Indicators Report, May 2024

Figure 2: Number of custody days served by young people in Bimberi



Source Bimberi Headline Indicators Report, May 2024

OICS reviewed data relating to young people in Bimberi between 1 January 2024 – 30 June 2024, and note:

- There were a total of 150 admissions (including individual young people who were admitted multiple times).
- 87 unique young people were detained in Bimberi during this time.
- Nine of these young people were sentenced during the review period while in detention, and all spent time on remand at Bimberi prior to being sentenced. The remainder were held on remand for the entirety of their time at Bimberi.
- 28% of admissions were female, 71% male and 1% other. This is a higher number of female detained young people than the average night rates of 16% (2022–23) reported by the AIHW.
- The median age of those admitted during the period was 15 years old.
- On 19 occasions, a young person aged 12 or 13 years old was admitted to the Centre.
- The population of the Centre fluctuated between approximately 11 young people to 22 young people during this period.
- Nearly two-thirds (63%) of admissions involved young people spending 2 or less days at the Centre, likely as a result of receiving bail at their first court appearance.
- 32 individual young people were released from Bimberi and returned to custody during the review period.
- For those young people released during the review period, 10% returned to custody in five or less days, with a median time out in the community of 18 days.

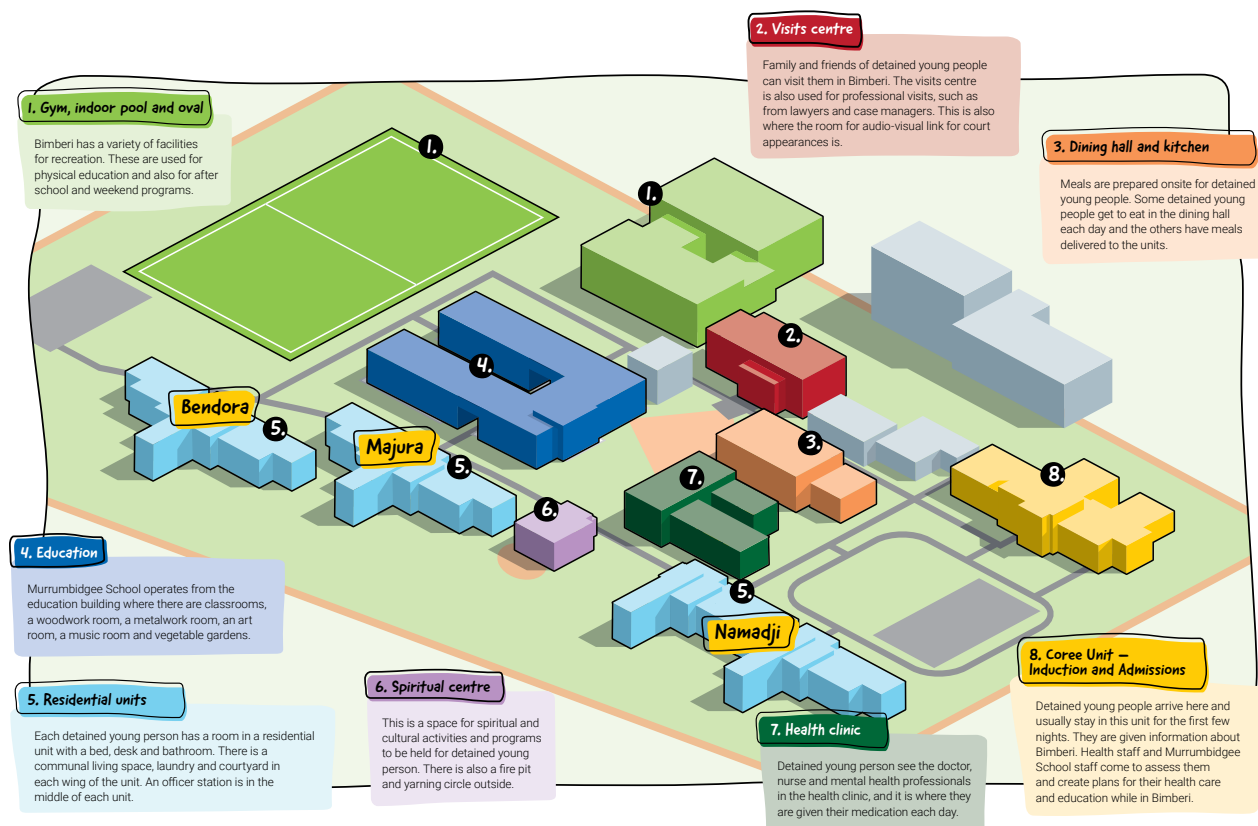
The high numbers of young people on remand, coupled with the uncertainty about the duration of their stay, creates challenges for the Centre as discussed further below. In addition, the Review Team notes that changes to ACT law commencing in mid-2025 mean children aged 12 and 13 years will generally no longer be detained at Bimberi.¹⁶ That raises a question as to how the “system” (police, CYPS, families, non-government agencies and the community) will respond to the needs of the 12- and 13-year-olds who would otherwise have been detained at Bimberi in the future. The Review Team also notes that in the 2022–23 financial year, according to the ABS, the most common principal offence charged for ‘youth offenders’ was acts intended to cause injury (42%).¹⁷

This review is focussed on the conditions of detention and treatment and care of young people at Bimberi (including preparation for release), but consistent with OICS’s role as part of the ACT National Preventive Mechanism, these figures inform the findings and recommendations of the review.

¹⁶ Depending on the type of their alleged offence.

¹⁷ Australian Bureau of Statistics, Recorded Crime – Offenders 2022–23 (8 February 2024) Table 20.

Figure 3: Bimberi Youth Justice Centre



1.8 The experiences of young people

Throughout this report, OICS has endeavoured to quote directly from the young people and staff we spoke to. For privacy reasons, we do not refer to the experiences of the young people detained during the review period, in an identifiable way.

The profound trauma and life experiences of the young people detained at Bimberi cannot be underestimated when we consider their treatment at Bimberi. For example, 36% of the young people detained at Bimberi from 1 January to 30 June 2024 were subject to care and protection orders. Further, during the same period, approximately 50% of the admissions to Bimberi who identified as Aboriginal and Torres Strait Islander people were also subject to care and protection orders. As the National Children's Commissioner has observed:

Children who come in contact with the justice system have multiple and intersecting needs which have not been addressed by the service systems that are meant to help them, including health, education, social services and child protection systems... Many of these children experience poverty, family, domestic and sexual violence, child abuse and neglect, out-of-home care, homelessness, drug and alcohol abuse, mental health issues, neurodevelopmental disabilities and learning problems. First Nations children, who are also struggling with the effects of intergenerational disadvantage and trauma, with its roots in colonisation and dispossession from their lands, make up a disproportionate percentage of the child justice population.¹⁸

This was central to the Review Team’s analysis and recommendations of this report.

1.9 Implementation of the recommendations in this report

Under section 18(1)(a)(ii) of the CI Act, OICS is required to complete the next whole of centre review of Bimberi by December 2027. OICS will track the status of accepted recommendations between reviews, and to this end requests a regular update on actions taken.

Recommendation 6:

That the Community Service Directorate update the Custodial Inspector publicly every six months from the date the government response is tabled, on actions taken on each recommendation that has been agreed to, until the Inspector is satisfied the recommendation is closed.

18 Australian Human Rights Commission, ‘Help way earlier!’. *How Australia can Transform Child Justice to Improve Safety and Wellbeing* (Report, 2024) 14.



CHAPTER 2

Safety



2. Safety

2.1 Safety of detained young people

The Review Team observed that staff generally had good rapport with young people, and a good understanding of the dynamics between detained young people. The staff survey included many comments demonstrating a commitment to making Bimberi the most therapeutic environment possible for a detention centre. OICS observed examples of effective de-escalation by Youth Detention Officers. However, practice was also observed where de-escalation was not pursued effectively or could have been better executed, avoiding a use of force.

Young people told the review that there was a marked difference between shift lines in the quality of relations between Youth Detention Officers and young people. Young people said that they would often wait for the 'good shift' to be on before making requests including for items such as clothes.

The morning briefing (a daily Bimberi-chaired meeting at shift changeover for key operational staff, Bimberi management, health, and education staff) appeared to be an effective forum for communication across shifts, information sharing and identifying emerging or ongoing issues relating to treatment and care of young people. It was noted that Bimberi management would provide directions at this meeting each day as to which young people could mix that day and where (eg in education, programs, gym etc), as well as any restrictions such as no access to certain objects.

An important tool that assists staff in engaging with young people are the Support and Engagement Plans that are developed by the Principal Practitioner. These include detailing known triggers for young people, as well as strategies to assist staff to work to the detained young person's strengths. These are discussed further at [3.2.5](#).

Finding 2:

That staff generally have good rapport with young people.

Staff Views – What is the best thing about working at Bimberi?

“The best thing about working as a youth worker in Bimberi is to get to work with the youth here and to help, support and in somehow be an example to them to become better people by using their manners and be respectful to others and themselves.”

“Working amongst passionate professionals from a range of different backgrounds and seeing their commitment to supporting young people.”

“Working with young people in developing skills to support their mental health and connect with helpful systems supports to reduce the likelihood of recidivism.”

“Working in an environment where all staff (BYJC staff, Youth Workers, Management) are exceptionally motivated to support best outcomes for the Young People.”

“The team I get to work alongside while providing therapeutic, trauma informed practices that support and engage young people.”

“The young people and the challenges we help them to navigate through. Seeing any small success they make is very rewarding.”

There are inherent tensions in performing a ‘youth worker’ role within a detention setting due to the role of developing a therapeutic relationship based on trust, whilst having to discipline young people or at times use force and restrain young people. The ACT Youth Coalition’s revised Work Code of Ethical Practice for Youth Work Practice (2023) emphasises the importance of voluntary engagement from young people which is not possible in detention settings.

Alternative models for youth detention have emerged over the last decade, such as the Spanish non-government organisation Diagrama.

Finding 3:

There remain inherent tensions in the role of Youth Detention Officer between building a therapeutic relationship with young people and engaging in uses of force and restraint. This requires further consideration of using different models of care at Bimberi.

Experiences from Spain

Diagrama is a non-government organisation that operates facilities for young people who have been sentenced (or remanded) to custody in Spain. Diagrama is being considered by several Australian jurisdictions in relation to development of new models of care for youth detention in Australia.¹⁹

The features of the Diagrama model include case management being supported by a multidisciplinary professional technical team which includes psychologists and social workers. There is a clear separation of therapeutic and security functions among staff. In the Diagrama model, the security staff 'act as a last resort in incident management', but '[a]s far as possible they stay in the background and are not responsible for young people's day-to-day care'.²⁰

David McGuire, Chief Executive of Diagrama, told the Review Team that the profile of the workforce is key – that if the focus of a centre or system is on punishment rather than on preparing children to 'be in the community and avoid them to come back, you are going to have a lot of security'. Having the majority of staff qualified in educative and therapeutic functions results in a need for fewer staff focused on security.

Time out of centres is also important; 'approximately 30 to 50 percent of young people go off centre daily, and in the lower risk open centres, every young person is in the community every day, with or without a staff member'.²¹ A 2019 University of Murcia study that found that of the 757 young people in a Diagrama centre in the Murcia region (on custody orders from 2011) who were tracked from their release until December 2017, only 14% (103) ended up in custody again.²²

Uses of force and other security interventions are also rare. In 2018, nearly 10% of young people across Diagrama centres were restrained and only 7% committed a serious incident beyond their first two months in custody.²³

The Diagrama model is further discussed at Appendix 2.

19 Including Queensland, Western Australia and Northern Territory. See for example Diagrama, *A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory Report of Diagrama visit* (October 2019); Office of the Inspector of Custodial Services (Western Australia), *Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part one)* (Report, May 2023) 16–17; Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022) 28; Submissions to the Inquiry into Victoria's Criminal Justice System such as: Local Time, Submission No 107 to Legislative Council Legal and Social Issues Committee, Parliament of Victoria, *Inquiry into Victoria's Criminal Justice System* (1 September 2021) 3.

20 Diagrama, *A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory Report of Diagrama visit* (October 2019), 15.

21 Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022) 28.

22 Dr. Antonio Velandrino Nicolás, *Estudio Sobre La Eficacia De La Intervención Educativa Con Menores Sujetos A Medidas Judiciales en La Comunidad Autónoma De La Región De Murcia* (Report, 2019) as cited in Diagrama, *A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory Report of Diagrama visit* (October 2019) 10.

23 Diagrama, *A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory Report of Diagrama visit* (October 2019) 11.

2.2 Early days in custody

Detention before Bimberi

Following arrest, section 30 of the *Corrections Management Act 2007* (CM Act) provides that children and young people may be detained at a police cell for up to 12 hours. If a young person is to be detained beyond this time, ACT Policing will escort the child or young person to Bimberi. While in police custody, the child or young person must be kept separately to adult detained persons pursuant to s 100(3) CYP Act. Children and young people may also be escorted directly from the police Watch House to the court cells pending a court appearance.

2.2.1 Transport

Detained young people can be transported from the court precinct to Bimberi either by Bimberi staff in a Bimberi transport vehicle, or by the Court Transport Unit (CTU), which is part of ACT Corrective Services (ACTCS). Young people can also be transported directly from the Watch House by ACT Policing.

According to a Memorandum of Understanding (MOU) between ACTCS and Bimberi, ACTCS are responsible for conducting escorts of young people in response to a court order, court direction, warrant or instrument of authority. The MOU also sets out exceptions where Bimberi staff may be required to undertake an escort or be required to attend an escort to support operations such as if there is an unreasonable delay in the handover of a young person/s from Bimberi to the CTU for transport or if there are special arrangements required for the management of a young person.

During the review period, the Review Team spoke with a number of young people who had spent time at Bimberi within the past five years. One recalled a time when Bimberi would handle escorts and noted how they and other young people had found it intimidating when CTU transported young people to court. They described how being transported in a high security adult corrections vehicle added anxiety to the stressful experience of having to attend court.

Bimberi has a secure escort van. This vehicle is, for the most part, used for escorts for health appointments or if a young person has been granted leave for personal reasons, such as to attend a funeral and must be escorted by Bimberi staff. On occasion Bimberi will escort a young person/s to the court cells to attend their court hearings. Notwithstanding the primary responsibility for transport of young people falling to CTU, CTU noted capacity constraints can mean on occasion they would welcome Bimberi providing some escorts.

Recommendation 15 of OICS review of *ACT Corrective Services Court Transport Unit 2020* (CTU Review) was that the CSD and ACTCS identify where training requirements differ between adults and children and young people regarding use of force and restraints and then ensure that current and future CTU officers are trained to required standards. The Bimberi Training Manager currently delivers four modules of their Youth Detention Officer recruit training to ACTCS new recruits, which includes a module which covers use of force. It does not cover use of force techniques specific to young people, but is a general training session on responding to critical incidents involving young people. ACTCS Organisational Capability Unit advised the Review Team that they found these sessions to be beneficial, in providing their officers with greater confidence when managing young people in their care. However, this training is not part of ongoing/refresher training for ACTCS staff.

Recommendation 12 of the CTU Review was that the CSD put a system in place that ensures that detained young people are waiting at the internal sally port at Bimberi to board CTU vehicles as soon as the escort is ready to do so. The Review Team did not observe this issue occur again, but several related issues did emerge.

For example, the Review Team understands that CTU vehicles are on occasion required to wait at the Bimberi gate for a prolonged period (up to 30 minutes) when collecting or returning a young person at Bimberi, even after having given prior notice of arrival. This is concerning as it results in young people being in the confined environment of a transport vehicle longer than necessary during a period of heightened anxiety (attending court), and is an inefficient use of CTU resources.

The MOU between ACTCS and Bimberi is now four years old and could benefit from a review to address some of the persistent issues arising from the current escort arrangements.

Court Cells

The court cell precinct has recently undergone significant expansion and refurbishment, with work completed in around 2023. The three cells for children and young people are in an area separate from adults, with some natural light. These cells are not within direct line of sight of the officer station but have CCTV coverage, however it is noted that a young person was detained in a cell in the adult section on at least one occasion during the review period. The cells are austere, being concrete construction with steel benches, and were observed to be clean and graffiti free. On occasions where young people are required to wait in the court cells for longer periods, other than a small TV there is nothing to distract or assist in soothing a young person at what may be a difficult and anxious time awaiting court appearance or being told they will remain in custody for a period. The CTU managers advised that the period that young people spend at the court cells varies considerably, however they aim to prioritise escorts to return young people to Bimberi as much as possible.

During the review period there was an issue with the cells used for young people reaching the contractually agreed minimum temperature during colder winter months. OICS understands that modifications were made to the building which has resulted in the cells maintaining a minimum temperature acceptable to the government. As a further measure to address this issue CTU advised the Review that they regularly offer extra jumpers and tracksuit pants to young people if they are feeling cold while in the cells.

2.2.2 Health assessment in custody

Informed by recommendations of the Royal Commission into Aboriginal Deaths in Custody and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, OICS Review Standards require that a young person is examined by a health professional within 2 hours of admission.²⁴

Mental Health Justice Health Alcohol and Drug Service (MHJHADS) within Canberra Health Services (CHS) provide primary health services and forensic mental health services at Bimberi. Justice Health Services (JHS) undertake a health reception assessment of newly arrived young people during 'core hours' when the JHS nurse is onsite at Bimberi. Young people admitted to Bimberi overnight are usually taken to court first thing in the morning for their first bail hearing, prior to the JHS nurse commencing. If bail is refused, the health assessment will only occur after the young person returns to Bimberi from court.

²⁴ Recommendation 156 of the Royal Commission into Aboriginal Deaths in Custody; Rule 50 of the United Nations Rules for the Protection of Juveniles Deprived of Liberty.

Therefore, there could be 12 or more hours delay from the time of arrest to that assessment taking place, and that period could involve two or three journeys between Bimberi and courts precinct as the young person is transferred from the Watch House to Bimberi, then back to the Court Cells, before returning to Bimberi. At each stage, non-clinical staff (police officers, Youth Detention Officers, CTU corrections officers) are making assessments of that young person's health care needs.

The Australian Federal Police (AFP) *National Guideline on persons in custody and police custodial facilities* places certain expectations on AFP members. These expectations require members to assess the health of those in custody, including to be satisfied that a person is fit for custody,²⁵ and to take reasonable steps to ensure a person receives proper medical attention in certain circumstances such as when showing signs of illness or injury.²⁶ Presently, the Review Team understands this expectation may mean, for example, that if a police officer is concerned that a young person requires immediate health care, they will transfer them to hospital rather than the Watch House after arrest.

The Review Team considers further investment is needed to ensure young people are safe in the initial hours of detention. Experts point to the value of ensuring the health care needs of detained people are assessed by a clinician in a Watch House setting:

Increased access to health care providers in watch-houses would improve assessment, triage and management of some health problems. This could help minimise adverse outcomes, and potentially reduce unnecessary and resource-intensive transfers to EDs. Consistent with World Health Organization recommendations for prisons, models of health care in watch-houses should be closely linked with public health services and, ideally, administered by a health care agency rather than the police service. Consistent with this, understanding the expected roles of the health team and those of the police watch-house would be imperative.

Further investment in interagency strategies is needed to reduce the burden on police and EDs, and ensure appropriate care for detainees.²⁷

A nurse does attend in person at the Watch House some nights of the week, provided by a different part of CHS – the Clinical Forensics ACT (CFACT) branch of Clinical Forensic Medical Service (CFMS). The CFACT nurse may see detained adults and young people who require medical attention, on referral by police. There is also a CFACT doctor on call that can be consulted and can see detained people if required.

The Review Team understands this is not to assess their 'fitness for custody', but to assess if their health care needs can be met appropriately in detention.

The Review Team heard anecdotal reports of young people's admission to Bimberi being delayed during police transport after hours from the Watch House, due to a difference of opinion between Bimberi staff and police as to whether a young person's health care needs could be met in custody (eg intoxicated or injured).

25 Paragraphs 17.

26 Paragraph 18.1.

27 Julia L. Crilly et al, 'Health care in police watch-houses: a challenge and an opportunity' *Medical Journal of Australia* 217 (6) (29 August 2022) 287, 288–289.

As the doctors and nurses provided by MHJHADS are not present onsite after-hours at Bimberi, Bimberi staff seeking medical advice must contact the on-call doctor. However, the Review understands the most likely outcome in such situations is that an ambulance is called so that the young person can be medically assessed at hospital.

The Review Team is concerned that an assessment of the health care needs of a detained young person at the Watch House is initially made by a non-health professional (ie police officer), who has to make a judgement/assessment without having a clinical background. These officers have complete discretion as to whether to refer a young person to a health professional for assessment. Further, as identified above, if brought in overnight, a young person may have to attend court for first appearance before having an opportunity to see a clinician at Bimberi.

The CI Act requires that an OICS's Healthy Centre Review be focussed on the conditions of detention for young people at Bimberi. Recent amendments to the CI Act broaden the Inspector's remit as part of the ACT NPM enabling a more holistic examination of the treatment of young people throughout the legal system.²⁸

Nonetheless, in light of the impact of the current health care assessment at the Watch House on admissions to Bimberi, the Review Team consider this issue is directly relevant to this Review and worthy of a formal recommendation. To be clear this report draws no conclusions about the present arrangements at the Watch House, and makes no adverse findings about the current assessment and observations of ACT Policing. This report is concerned with improving the present systemic arrangements from the perspective of best interest of the child or young person.

This is also an emerging issue nationally. The Queensland Deputy State Coroner recently recommended nursing staff be available 24 hours a day, 7-days a week in police watch houses to ensure an initial assessment of all persons is conducted by a health clinician.²⁹ The Queensland Inspector of Detention Services also recently recommended the Queensland Police Service ensure a child is examined by a qualified health practitioner at police watch houses, informed by the requirement in Queensland that on admission to a youth detention centre, nursing staff and the shift supervisor will assess young people admitted after hours.³⁰

It is unrealistic to expect all police officers to be able, without appropriate guidance and training, to adequately phrase questions in a trauma-informed and culturally appropriate manner, or in a way that can be understood by a child with a cognitive impairment....we are concerned that self-harm/suicide risks or significant health and medical issues may not be identified through the admission process.³¹

The lack of after hours nursing staff at Bimberi leads the Review Team to conclude a health care needs assessment must be completed at the Watch House in order for relevant standards to be met. This would not encompass a full health assessment, but rather assess if a young person's health care needs can be met at Bimberi or the Watch House.

28 *Monitoring of Places of Detention Legislation Amendment Act 2024.*

29 *The inquest into the deaths of Shiralee Deanne Tilberoo and Vlasta Wyluck* [2024] QldCorC 16 [220] Recommendations 3 and 4.

30 Office of the Inspector of Detention Services (Queensland), *Cairns and Murgon watch-houses inspection report: Focus on detention of children* (Report, September 2024) 43 (recommendation 4).

31 *Ibid*, 36–37.

Recommendation 7:

Canberra Health Services work with ACT Policing to devise a funded model which ensures a clinician assesses whether the health care needs of all young people coming through the Watch House can be met at the Watch House or Bimberi, or they should be taken to another facility such as a hospital.

2.2.3 Reception, admission and induction

The Review Standards require that detained young people are safe and treated with respect on arrival and during the initial period in Bimberi. In addition, risks must be identified and addressed according to individual needs. This is essential because initial hours of detention are the highest risk period for detention and young people are in a situation of particular vulnerability due to their age.

Bimberi staff remove a detained young person from the transport vehicle, before initially taking them into a waiting room and then escorting the young person into the admission wing of Coree Unit. In both the Healthy Centre Review 2020 and 2023 NPM Isolation Review, OICS raised concerns about the austere nature of the Coree Unit. The Royal Commission into the Protection and Detention of Children in the Northern Territory noted that ‘the physical environment of a youth detention facility – the architecture, buildings, spaces, surroundings, furniture and ambience – greatly affects a young person’s experience of detention and therefore their prospects of rehabilitation’.³²

A refresh of the Coree Unit was completed in 2023 (painting etc), but hard surfaces and lack of softer furnishing in the Unit remain. This may be particularly challenging for young people with sensory processing disorders, as sound bounces around these rooms. Further, the Review Team noted window vents were left open in Coree on a winter night making the room where admissions processes were carried out very cold.

Photo 1: Induction interview table, Coree Unit



Source: OICS (2024)

32 Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory (Final Report, 17 November 2017) Volume 2A Chapter 10 page 78.

As noted in the 2023 NPM Isolation Review, OICS continues to suggest that wherever possible, decisions around in-cell materials, colours and fixtures should consider therapeutic dimensions and not be made on security grounds alone. OICS understands that changes have been planned to colour palette and furnishings in response to the 2023 NPM Isolation Review, but none were in place at the time of the review.

Architectural researcher Matthew Dwyer undertook a Churchill fellowship in 2020, examining the design of secure youth detention facilities around the world. In recommending small-scale facilities, he noted:

The visits during the Fellowship universally confirmed the need for a facility design to be as 'homey' as possible and to avoid institutional characteristics...Many facilities have normal domestic finishes, fixtures, furniture. Furniture is typically movable, robust, often made of timber, often upholstered (though this varies between security levels). Rugs, blinds and curtains are very common despite security levels, with soft surfaces contributing substantially to acoustic attenuation.³³

His photo of the 'welcome space' at Rossie School, an 18-bed secure facility in the United Kingdom is in stark contrast to Coree Unit at Bimberi. Young people enter this space after going through an 'airport' security scanner.

The Welcome Space is an area where young people and their carers meet with their specific Rossie care team for the first time. It is a place provided to feel welcoming, comfortable and calm. Seats are low informal upholstered chairs with timber armrests and are located around a low timber coffee table. Pillows and knitted throw-rugs are provided over the chairs. There are also small timber side tables, a timber sideboard with coffee and tea making facilities including a small fridge, a shag pile rug beneath the coffee table, pot plants, lamps and a television mounted on the wall. Colours are light and muted, mixed in with tones of blue and green. A large number of textures are provided in the room, without it feeling cluttered. A patterned green wallpaper is provided to one wall. An abstract painting is mounted on the wall in colours that relate to the room's overall colour scheme.³⁴

33 Matthew Dwyer, 'What changes people is relationships': *Designing youth justice facilities that work* (Report, January 2023) 84.

34 Matthew Dwyer, 'What changes people is relationships': *Designing youth justice facilities that work* (Report, January 2023) 67–68. See also M Dwyer and S Oostermeijer, A Model of the Design of Youth Custodial Facilities: Key Characteristics to Promote Effective Treatment; in D Moran et al (eds) *The Palgrave Handbook of Prison Design* (Palgrave Macmillan, Cham, 2023) 339, which identify 'home-like' centres as providing the best design.

Photo 2: ‘Welcome space’, Rossie School, United Kingdom



Source: Dwyer (2020).

Experience interstate

Members of the Review Team visited the Riverina youth detention centre during this review. While much of its built environment was aging and not in line with more modern therapeutically focused centres, the Centre had taken several steps to soften the Centre’s appearance. For example, Aboriginal art in the form of murals and ‘wrap’ wallpaper was used throughout the Centre, particularly in the visits area, counselling rooms and health clinic. The centre had also recently fitted out a small room as a sensory room with weighted bean bags, blankets, pillows, sensory objects and soft furnishings. These small changes had a significant impact on the Centre’s appearance.

Isolation on admission to Bimberi was a particular focus of the 2023 NPM Isolation Review, especially the practice at the time of mandatory health segregation of 5–7 days on admission to manage risks of COVID-19. The Review also raised concerns with the confidentiality of health assessments. As a result of urgent recommendations made during that Review, OICS was advised by CSD that these practices were changed in July 2023 and it was pleasing to observe that those changes continued to be in place in June 2024.

Finding 4:

The practice observed in June 2023 of COVID-19 health segregation of children and young people on admission to Bimberi for up to a week as a preventive health measure has ceased.

Finding 5:

Changes to processes for Justice Health Services' initial health assessments to increase confidentiality have been satisfactorily implemented.

Finding 6:

The physical environment where admission to custody occurs at Bimberi is austere and would benefit from soft furnishings, wall decoration and temperature management.

In its 2023 NPM Isolation Review, OICS raised concerns about Nazi hate graffiti such as the Nazi Hakenkreuz scratched into windows, walls and floors around the Centre, including the Coree Unit, where a young person will spend their first nights in custody.

OICS recommended CSD dedicate sufficient resources to maintenance of cells, common areas and visit areas, including windows and doors, to ensure that Nazi hate, offensive and other graffiti is removed or covered in a timely manner. The government 'Agreed-in-principle' to this, noting:

Bimberi has a preventive maintenance schedule to maintain young people's rooms, common areas and the visits centre; with work priorities based on the level of risk to safety and security.

The funding of additional resources to maintain the physical environment to the standards recommended by the OICS will be subject to further consideration as part of the whole of government budget process.

During this review, the Review Team were deeply disappointed to see Nazi hate graffiti still prevalent around the Centre one year on, particularly in the Coree Unit. This was particularly concerning as there was a 12-year-old Aboriginal young person accommodated in Coree at the time. The Review Team recognise that maintaining infrastructure in a detention setting is a challenging task. Removing graffiti in particular may be an ongoing task, and the current material used for windows is easily scratched. However, the ACT Government, at a minimum ought to ensure the maintenance team are sufficiently resourced to address this issue. The current situation is completely unacceptable.

Offensive graffiti creates a physically, psychologically, and culturally unsafe environment, particularly to Jewish people, Aboriginal and Torres Strait Islander people, other people of colour and LGBTQA+ people. The Review Team considers that symbols matter and the impacts they may have on children and young people who are entering custody should not be understated. The presence of these symbols further contributes to a detention experience that may already be highly traumatic for young people.

Dwyer, in his Churchill Fellowship report examining the design of secure youth facilities, noted the importance of a centre being 'neat, clean and organised' to help staff and young people feel relaxed, safe and cared for.³⁵

35 Matthew Dwyer, 'What changes people is relationships': *Designing youth justice facilities that work* (Report, January 2023) 84.

An observation emerged after visiting a number of facilities: in a very important way, the physical environment openly displays the intentions, feelings and approach of the organisation, the staff, and the young people who live there. In this sense, the facility environment is less about ‘architectural design’ in a discrete or professional sense, and more about what the environment communicates to the people who live and work there. In short, does this place feel cared for? Does it feel looked after and wanted? Does it feel valued? The physical environment is very much an expression of the social environment that creates it. This includes, but is not limited to, a thoughtful architectural design.³⁶

The Review Team notes that during a visit subsequent to the review period, the Bimberi maintenance team were undertaking significant work improving the outdoor spaces around the Centre including cutting back trees and installing crushed granite.

Photo 3: Graffiti on Coree window



Source: OICS (2024)

Finding 7:

Despite a recommendation in the 2023 NPM Isolation Review to address the prevalence of hate symbols around the Centre, offensive and other graffiti is still prevalent.

Induction Search

During the admissions process, a Youth Detention Officer has discretion as to how invasively they may search the detained young person. Pleasingly, strip searches (eg a search that requires the detained young person to remove all of their clothing) are not routine. A strip search can only be conducted with the Manager or on-call Manager’s approval.

36 Ibid.

In 2024, OICS updated its ACT Standards for Youth Detention Places to recommend a cessation of strip searching for all young people in detention, based on research about the harmful impact of strip searching, the low yield of contraband finds during such searches, and the increasing availability of body scanning technology. The Review Team notes that there have been few strip searches on induction at the Centre, but as discussed at [2.4.1](#), it is concerned about the rising number of strip searches across the whole centre. The installation of a body scanner could remove the need for strip searches.

Photo 4: Shower, Coree Unit



Induction interview

The Review Team observed an after-hours admission and induction at Bimberi, for a young person for whom it was their first time in custody. It was late on a cold winter evening. The Bimberi staff were professional and supportive of the young person. For example, a call to family, warm clothes and a shower were prioritised. Food was also provided prior to beginning the induction interview.

Staff conducted an induction interview with the young person, including providing information about Bimberi and providing a copy of the Bimberi Handbook.

The Review Team notes that communicating induction information via a short Easy English summary, posters or a video, would make the process more accessible. Previously at Bimberi, staff invited young people to watch an induction video but as at June 2024, the Review Team understands that this had not been operational for over a year. The Review Team considers that an induction video that is captioned, up to date and relevant should be played as part of the induction process, or shown to the young person the following day.

Key information collected during the induction interview is recorded on the Daily Residents List, which provides a snapshot for staff about the young people detained at Bimberi each day. The Daily Residents List is an example of a good practice that highlights key information including particular vulnerabilities. The Daily Residents List would be enhanced if it flagged those young people who were at Bimberi for the first time, as first time in custody is an important vulnerability factor.

Photo 5: Admission side of Coree Unit



Source: OICS (2024)

Photo 6: Corridor connecting the admissions side of Coree unit with the residential side



Source: OICS (2024)

Detained young people may spend their first night on the admission side or on the residential side of Coree. Staff will not place the young person in one of the residential units until they have completed a risk assessment. In the case of the admission the Review Team observed, the young female was moved to the accommodation side of Coree Unit at the completion of the admission interview.

A male young person was already residing on this side of Coree (for disciplinary purposes). When he heard a new admission arriving he began calling out to find out more about the newly arrived person, including shouting “fresh meat” multiple times. Regardless of the intent of that young person, it is reasonably likely to have made the female detained young person feel ill at ease.

Finding 8:

That the admission and induction process at Bimberi Youth Justice Centre appears sound, subject to the following:

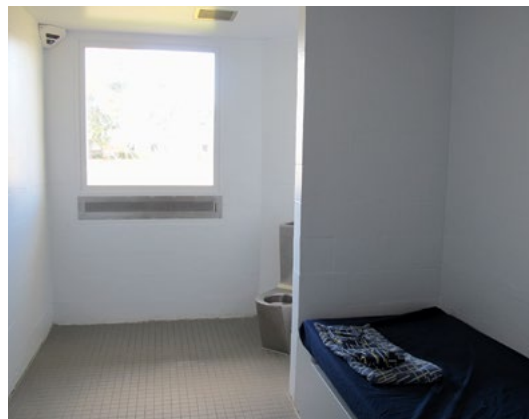
- The admissions environment in Coree Unit is not a physically welcoming environment.
- It is inappropriate for newly admitted female young people to be accommodated in Coree with male young people.
- The Daily Residents List would be enhanced if it flagged those young people who are in Bimberi for the first time.
- Providing information only in printed form can be overwhelming and/or inaccessible.

**Photo 7: Coree (Admission Unit)
Officers' station**



Source: OICS (2023)

**Photo 8: Cell in Coree Unit
– admissions side**



Source: OICS (2023)

Physical and mental health assessment

The Review found OICS's standard that initial checks of physical and mental health are carried out was met.

The JHS nurse undertakes a physical health induction in person. This assessment currently includes a drug screening urinalysis. The therapeutic rationale for this is not clear.

Upon admission, staff will observe all detained young people every 5 minutes until they have been assessed by Forensic Mental Health Services (FMHS). This is discussed further in section 3.3.5. FMHS staff will usually undertake a mental health induction assessment face to face, but may revert to doing this via audio-visual link in some situations.

Finding 9:

That the physical assessments conducted at admission were generally appropriate except for a drug screen urinalysis being a standard inclusion.

2.2.4 Transport to court for newly admitted young people

The 2023 NPM Isolation Review raised concerns about limitations on confidential communications between young people and their lawyers when young people were segregated and/or not appearing in court in person. Recommendation 2 of that report was that Bimberi take urgent steps to guarantee confidential communication between children and young people and their lawyers, in an appropriate setting.

The Government's response was 'Agreed and complete', noting:

Young people are now attending court in person for their first appearance.

Screens for audio-visual links and a phone are available in the Coree (admissions building) interview room for young people to make confidential calls to their legal representative. As soon as possible the contact details for legal representatives are added to the young person's phone account.

While on site in July 2024, the Review Team observed a particularly busy morning where six young people newly admitted into custody were due for their first appearances in court but were not transported in person. Five of the six young people identified as Aboriginal and Torres Strait Islander and the youngest was 12 years old. According to the Court's notice to practitioners, all six should have been brought to Court in person.³⁷ It is understood that this was a particularly busy day for the courts and CTU's capacity to conduct the escort and detain the young people appropriately at court was limited. CTU advised Bimberi that they would not be able to undertake the escorts and that AVL arrangements would be facilitated as an alternative. Bimberi management were not consulted or asked to bring the young people to court, although noted to the Review Team that if asked to escort the young people, Bimberi staff would have needed to make multiple trips using their own transport vehicle, and this would have adversely affected staffing at the Centre.

Notwithstanding that it was a busier day than usual, it is unacceptable and contrary to court protocol that young people were unable to attend court in person for their first appearance. As a consequence, the confidentiality of some of the young people's discussions with their lawyers was not preserved. The Review Team observed multiple telephone calls between young people and their lawyers occurring at a desk phone at the entrance to the Client Services Building, with a Youth Detention Officer meters away, and within earshot of the Youth Detention Officer and anyone entering or exiting the building. OICS raised concerns about the presence of Youth Detention Officers near young people talking to their lawyers in the 2023 NPM Isolation Review.

When staff called an emergency code that same morning, it resulted in a centre-wide lockdown, causing further delay in some lawyers being able to obtain instructions from young people. The young people's lawyers confirmed that these arrangements made it significantly harder to take instructions and provide advice. The Court facilitated an AVL for one or two of the young people to speak to their lawyers, but other matters then commenced and the Court needed the AVL facility. Without being able to use the court AVL, the lawyers had to then revert to phone calls to speak to their clients.

The issue of the impact of emergency codes on the centre is discussed at [4.1.2](#).

Further, staff informed the Review Team that the usual practice for young people who come into custody on Friday nights is to appear before the Court via AVL on Saturday mornings. The Review Team was able to confirm this occurred for at least one young person.

In-person appearances in court has the advantage of providing greater confidentiality in discussions between young people and their lawyers and improving the quality of communication between young people and their lawyer. Further, it allows the lawyer, as an independent person to see the young person in person and to better assess their wellbeing through non-verbal cues.

During a visit to an NSW youth detention centre, Review Team members observed stickers on all audio-visual link suites reminding Youth Detention Officers they are not allowed to be in listening distance when detained young people are conversing with their lawyer. This underlines that more needs to be done at Bimberi to impress on all staff that any conversation between a young person and their lawyer is confidential. This could occur through various means including staff training, visual cues, and informing young people of the right to confidentiality.

37 ACT Magistrates Court, Notice to Practitioners: First Bail Applications to be in person (17 March 2023).

In response to these issues, and the requirement for young people to appear in court in person, JACS advised the Review:

While JACS expects this practice to be followed, it acknowledges that accommodation constraints at the Court Transport Unit (CTU) can make it challenging. This was highlighted in the isolated incident where six young people under section 30 were held overnight, compared to the usual 1–2. Due to these constraints, alternative transport was not arranged, and the young persons appeared via audio-visual link instead. This incident underscores the need for additional resources to ensure the practice of appearing in person can be consistently followed...Although the current Memorandum of Understanding (MOU) between ACTCS and Bimberi includes contingencies for alternative travel arrangement, Bimberi's ability is limited by the one escort vehicle available. JACS notes that a larger Bimberi fleet may assist here.

The CTU and Bimberi meet bi-annually (every 6 months) to discuss joint operational matters, with the last meeting in June 2024. Discussions on a joint review/update of the MOU have commenced and are ongoing.

Finding 10:

Contingency measures are not in place for busy times at both Bimberi and the courts to ensure young people are transported to and from court as a priority, and always for first mention hearings regardless of whether these occur on weekdays or weekends.

Finding 11:

Bimberi practices do not demonstrate an institutional understanding of the importance of confidential communication between young people and lawyers. Issues previously raised about confidential communication between young people appearing in court via audio-visual links remain. Recommendation 2 of the 2023 NPM Isolation Review has not been implemented; being that Bimberi take urgent steps to guarantee confidential communication between children and young people and their lawyers, in an appropriate setting.

Recommendation 8:

That the Memorandum of Understanding between Community Services Directorate and Court Transport Unit should be reviewed and updated, including to address finding 10 in this Review.

2.2.5 Classification

The Healthy Centre Review 2020 included a detailed discussion of the security classification system, ultimately concluding that:

[T]hat the underlying security classification system is flawed, particularly because it is heavily reliant on factors the young detainees (sic) cannot change, and it is a long time between classification reviews ... the classification system is unnecessary for a centre this small, and a more specific alerts system should be used instead.

In that review, OICS noted how the classification impacts on the effectiveness of the incentive scheme because young people who are progressing well due to good behaviour might still be under tight restrictions due to their classification. For example, they may not be able to participate fully in woodwork or horticulture due only to their classification, which may not aptly reflect their current risk inside the centre. Young people consulted during this review shared similar concerns to those raised in 2020, in that the classification system acted as a disincentive to behave well to achieve incentive points, because they think it will not reduce the restrictions caused by their classification.

Recommendation 1 of Healthy Centre Review 2020 was to remove the legislative requirement in the CYP Act relating to security classifications. It was noted that removing classifications would require more detail in the alerts system to provide detail to staff on the nature of risks (including linking to individualised plans such as the Special Management Directions).

This recommendation was not accepted and Bimberi's classification system remains largely unchanged from 2020. Some of the same issues identified in 2020 were again raised during this review, and the Review Team considers this recommendation remains necessary.

Classification reviews

A classification review occurs as either a scheduled review or is triggered by an event or incident. If a detained young person does have a scheduled review, there are only a few ways that they can receive credit points to reduce their classification such as having no disciplinary matters or participating in education and programs.

The Healthy Centre Review 2020 found that the time between classification reviews was too long, and the review period was subsequently shortened. For young people on remand, the relevant practice guidelines indicates that classification is now reviewed every 2 months.³⁸ However, based on OICS's analysis of the CYRIS database from 1 January to 30 June 2024, detained young people spent an average of 29 days on remand, with a median of 1 day.³⁹ Further, nearly two-thirds of admissions during this period were for 2 or less days in custody.

This indicates that there are a significant number of detained young people on remand overnight and these young people will not be classified. However, it also suggests that those who are classified may not be at Bimberi long enough to have a scheduled review. In the same period, detained young person spent an average of 59 days in sentenced custody, with a median of 4 days.

In contrast to detained young person on remand, staff review the classification of sentenced detained young person every month (if sentenced to 3 months or less).

38 Bimberi Practice Guideline: Classification 4.

39 For young people still detained on remand at 30 June 2024, this date was taken as the final day of their remand period.

Impact of classification on preparation for release

The current classification process also affects young people's preparation for release. For example, no young person applied (or was granted) leave while on remand to attend education, training or employment opportunities in the previous several years. The provision of leave permits for young people on remand is discussed further below under the topic of diversity at 3.2.1.

Exacerbating this situation is that the *Children and Young People (Admission and Classification) Policy and Procedures 2018 (No 1)* is silent on how young people who have and return to the Centre in a short time are to be classified.⁴⁰ The Policy requires that on admission a young person is considered a high risk:

A young person who has just entered Bimberi and has not had an initial classification assessment is Unclassified and considered a high risk.⁴¹

The Review Team understands the practice to be that even if a young person is known to the Centre and has recently been released from custody on a particular classification, on return to custody they are treated as a new admission and initially rated as a high risk. When their first classification review is undertaken, they may then be rated as medium or high risk. The rigidity of the classification system constrains the operation of the Centre.

The Review Team considers that a more individualised approach to risk is appropriate and achievable, and would give Bimberi staff greater flexibility in supporting each young person – many of whom are well known to staff given the numbers of young people cycling in and out of the Centre over a relatively short period. For example, in the six months from January to June 2024, 32 young people were released from custody and then returned to Bimberi, resulting in a total of 63 re-admissions. Of these 63 readmissions to Bimberi, 34 were for breach of bail only (rather than being charged with a new offence).⁴² For a young person who achieves a reduction in classification during their first stay at Bimberi, who is then released on bail, and then shortly thereafter returns to custody for breach of bail (rather than a new offence), it is understandable that they may feel dispirited to return to a higher classification.

For reference, 51 individual young people were released in this period and did not return to custody. In practice, it is a small group of young people known to Bimberi that keep returning to custody.

Finding 12:

The Security Classification System is still not fit for purposing including because some of the findings and recommendations made in Healthy Centre Review 2020 regarding classification remain relevant. The previous recommendation was that “the ACT Government remove sections 163 and 190 from the *Children and Young People Act 2008*, which relate to security classifications”.

⁴⁰ The list of information to be considered does not include prior good behaviour in detention, only ‘history of violence in detention’. Arguably previous classification could be considered under ‘any other relevant information’.

⁴¹ At 6.86.

⁴² The 34 readmissions for breach of bail for this cohort is a calculation of admissions, so may include the same young person being admitted on multiple occasions for breach of bail.

2.3 Behaviour management

OICS Healthy Centre Review 2020 made several recommendations in relation to practices and processes under the Bimberi Behaviour Management Framework (BMF), including some relating to the improvement of existing tools and processes to ensure the framework is trauma informed, has a therapeutic focus, responsive to the developmental needs of young people and reflective of available information about young people and expertise within the service system. In particular that:

In particular, OICS recommended 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.

The government response to that review indicated that CSD were undertaking a comprehensive review of the BMF which was to be completed by June 2022, which would address recommendations 3–7 of the review. CSD indicated that the development of a new BMF would explore key theoretical frameworks that underpin behavioural management, and consider trauma informed behaviour management systems and culturally responsive supports, including for Aboriginal and Torres Strait Islander young people.

It was pleasing to see that the new BMF had been implemented at Bimberi and that all existing and new staff were being trained on adherence to the framework and understanding of the underlying ethos.

Promising Practice

The Behaviour Management Framework has improved significantly since Healthy Centre Review 2020. Following a review and revision, the Framework is now more effective including better aligned with the Education Directorate’s approach to positive behaviour.

The BMF is based on a Positive Behaviour for Learning (PBL) model, which refers to positive and proactive interventions used to teach and support positive behaviour changes in young people and preventing what CSD describe as ‘challenging behaviours’. The PBL model aims to improve a young person’s behavioural, learning, social and mental health outcomes by developing a positive and therapeutic relationship between the young person and staff across the Centre. Strategies under the PBL aim to create an environment that is safe, positive, predictable and consistent and relies on a set of behavioural expectations to create this environment. The PBL categorises expectations as Respectful, Safe and Engaged, with specific expectations which young people are expected to meet across various locations of the Centre.

The Review Team noted posters displayed throughout the Centre which set out the specific expectations of young people’s behaviour in each area. For example, there are different posters for accommodation units, the gym and client services/health building. The posters are written in simple and concise language so that expectations are clear and accessible and provide a useful prompter for young people and staff. Expectations are framed using positive language which reinforces the intent of the PBL model.

The BMF and PBL also apply when young people are at the Murrumbidgee School, and teaching staff are an integral part of its delivery. The behaviour expectations for education were developed in collaboration with Murrumbidgee School staff and are consistent across all the education spaces. Education staff provide feedback to young people about their behaviour and efforts during classes, and share their observations with the Youth Detention Officers.

The Review Team also heard from ACTCS staff that CTU Officers are trained by Bimberi on the BMF to better understand how to manage young people while they are in their care. CTU staff can provide feedback to Bimberi on a young person's behaviour while at the CTU which can contribute to a young person meeting their daily goals.

2.3.1 Incentives

The incentives scheme at Bimberi is intended to motivate young people to set and achieve daily and weekly goals by demonstrating positive behaviours and engaging in pro-social activities. The incentives scheme is built on a points system where young people accrue points for accomplishing their goals and can earn additional points, known as Bimcoins, for participating in extra activities or proactively engaging in other areas such as education, participation in the accommodation units or demonstrating additional efforts to improve on certain behaviours and activities as set out in their personal goals. Points can be exchanged for a range of different rewards and privileges, referred to at Bimberi as purchases.

The incentives scheme has four levels which young people can progress through, starting at level 1. Each level has a set of behavioural and achievement standards that young people work towards each day. The expectations increase with each level and young people gain access to a greater choice of rewards and privileges as they progress through the levels.

A young person's access to their purchases is dependent on their incentive level, for example a young person on level 1 or 2 can only access their purchases between 6–7pm in the evenings, level 3 can access their purchases from 3–7pm and young people on level 4 have full access to their purchases including being able to store their purchases in their cells. Young people on levels 1–3 must store their purchases in a container in the duty point (staff office area).

Privileges include access to purchases and drinks, later access to television and cell lights, wearing slides inside a cell, and the possibility of wearing purchased clothing items in the accommodation unit.

Incentive levels are reviewed every four weeks and young people must meet specific criteria to either maintain their current incentives level or to progress to the next level. For example, a young person must achieve an average of 75% of their weekly incentive points over four weeks and achieve their goals for most of those weeks to progress to the next level.

Youth Detention Officers are responsible for allocating and recording incentive points throughout the day on a paper copy of the young person's Daily Incentives Record and is used to provide feedback to young people. A formal copy of the Daily Incentives Record is recorded on CYRIS at the end of each day which must include a record of any Bimcoins and any other comments or important information about the young person for that day.

Murrumbidgee School has also introduced a student of the week award with the recipient of the award gaining an additional 100 incentive points towards their weekly goal. The Review Team heard from education staff that they often witness a sense of pride and accomplishment in young people when they are awarded the student of the week.

Weekly reflection meetings are held for each young person to discuss progress and recognise positive behaviour over the past week as well as discussing any challenges and strategies for addressing them. The weekly reflection meetings include input from Bimberi staff, case workers, supports and services team, education and health staff. These meetings are also used to set goals for the following week and are to be done in collaboration with the young person and a copy provided to them.

Views of young people

The Review Team heard from some young people that they felt some of the requirements of the incentives scheme were unduly restrictive and did not encourage young people to engage proactively with the scheme. They felt, for example, having to start on the lowest incentives level when they arrived at Bimberi was unfair and did not encourage them to work hard to meet their goals as they felt it took too long to progress to higher levels and sometimes it was too hard to meet their daily goals. This is particularly relevant for the large percentage of young people who are on remand and therefore uncertain about their length of stay. One young person who had recently returned to Bimberi after a short time in the community told the Review Team that when they had been in Bimberi previously they had been on the highest incentive level and felt that it was unreasonable that they had to start at the lowest level again.

The Review Team also heard from young people that when staff lockdown the entire centre due to an incident code being call, it can make it difficult to meet their daily goals, particularly if there are multiple codes in one day. Many of the young people also felt that it was not reasonable that they could not have access to their purchases and TV remotes while they were locked in during a code lockdown. Incident codes are discussed further at [4.1.2](#) of this report.

A number of young people told the Review Team that Bimcoins were a good way to earn extra points, and that they were able to do extra chores to earn Bimcoins if they were saving for a particular item on the purchases list, such as a particular pair of shoes which can take several months to save for. However, we also heard that there were perceived inconsistencies in how Youth Detention Officers awarded points for extra chores.

While the introduction of Bimcoins appears to be a positive incentive for young people to earn extra points, the Review Team notes it is important that Bimberi ensure Youth Detention Officers take an objectively fair and consistent approach in awarding them.

Further, many of the young people we spoke to felt that limiting access to purchases should not be a restriction based on incentive levels and that they should be able to access their purchases when they want and keep them in their cells. This was particularly relevant for young people on the lower levels who after eating dinner at 5:30pm only had access to their purchases from 6–7pm when they were not hungry and could not access their food purchases later in the evening when they were hungry. Given that young people are locked in the cells from 7–7:30pm in the evening for anywhere up to 16 hours, without access to food the Review Team is of the view that this is an unreasonable restriction and that young people should be able to access food that they have purchased with their incentives points when they want it.

Access to purchases is further dependent on any current disciplines or charges including loss of privileges. Some of the young people who spoke to the Review Team expressed great frustration that if they lose privileges then they are unable to access items that they had purchased with points they had already earned and accrued. While they did not raise concerns with losing access to future purchases while on loss of privileges, some young people said that they lost privileges for a number of months and felt that it was unreasonable that their existing purchases were taken off them as well.

The sentiment of young people was summarised by a former detained young person, who described being treated like a “little kid” at Bimberi. This feeling was caused by having limited access to TV remotes and purchased items, having to request for lights to be turned on and off, being locked in their rooms at 7–7:30pm and being told when lights are turned off.

Finding 13:

Bimberi’s incentives scheme has features to commend it, though the following aspects were in the Review Team’s view unduly restrictive for all young people:

- Commencing all young people on the lowest incentive level on induction.
- Removal of young people’s access to previously purchased items at certain times or when they are disciplined.

2.3.2 Discipline

Special Management Directions

To ensure the safety and security of a young person, or others at Bimberi, the Centre Manager may assign a Special Management Direction (SMD) for a young person. A SMD may relate to special observations, restrictions on movement placement, and interactions, or special provisions for visits or phone calls. These directions can apply while a young person is at Bimberi, or while the young person is subject to a local or interstate leave permit, a transfer direction or under escort.

A SMD can be a single direction, given at any time, that is formalised in writing, or a series of directions detailed in a SMD document. The BMF further suggests that such a direction is made to ensure that a young person is supported and managed in a way that meets their individual needs and ensures their physical, emotional and mental health and wellbeing. The BMF states that a SMD may be implemented in response to what the Framework describes as “severely challenging behaviours” and/or complex needs.⁴³

Senior Bimberi staff must review the SMD document at least every 7 days and must consider all intelligence that is available and relevant to the young persons risks and alerts. In considering such a direction, staff must also consider any relevant information available from the Bimberi Principal Practitioner, treating health services, custodial mental health services, education services and CYPS.

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:

⁴³ According to the Bimberi Behaviour Management Framework, Version 1, 44.

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*.

Similarly, the Behaviour Management Framework, updated in 2023, states:

Please refer to *Behaviour Management Policy and Procedure 2018 (No. 1) Notifiable Instrument NI2018-432* for further information regarding policies relating to SMD and how they connect to overall Behaviour Management Framework.

From January to June 2024, Bimberi management implemented 7 SMDs for 5 individual young people (ie some had more than one). Some of these lasted only for a few days, but others were in place for 2 months.

The Review Team examined several of these SMDs, which generally contained an assessment of the risks posed by the young person that sought to justify the application of a SMD. Typical restrictions involved a young person remaining alone in their unit for meals and education, and not being able to access facilities at the same time as other young people (eg the gym). Restrictions were somewhat tailored to the risks identified.

However, the Review Team is concerned that SMDs should be reviewed more regularly than 7 days given the significant restrictions they place on young people including for example, limitations on young people mixing with certain others, attending activities with others, or education in person.

Further, the Review Team reviewed several SMDs which did not flag the obligations on staff to give proper consideration to human rights under the HR Act in considering making a SMD. Unfortunately, this was the case across several key decisions made at the Centre.

In Healthy Centre Review 2020, OICS found SMDs lacked clinical input, particularly where they contain content relating to mental health or disability. In addition, OICS suggested that where they were developed to manage self-harm or suicide risks they should have significant input and oversight from forensic mental health.

While the continued lack of reference to SMDs in notified policy and procedures is concerning, it appears that in some circumstances multidisciplinary input can now be provided. The Review Team saw some examples of information being explicitly obtained more broadly in the SMDs, but the reviews of them clearly drew on any existing Support and Engagement Plans developed by the Principal Practitioner. This is a positive development.

Another improvement since Healthy Centre Review 2020 is that the revised BMF now refers to SMDs. It suggests Unit Managers should consult with the Support and Services Team when imposing such a direction.

Finding 14:

The Custodial Inspector's previous suggestions have been implemented as there is now a link between Special Management Directions and the Bimberi Behaviour Management Framework. Input is now also possible from a range of disciplines across the Centre.

Finding 15:

Concerns found in Healthy Centre Review 2020 regarding the making of Special Management Directions (SMD) continue. Several key policy and practice documents make no mention of SMDs. The continued failure to properly set out their use in notified policy undermines their effectiveness including clearly stating who has the authority to impose a SMD.

Finding 16:

The present framework for the development of Special Management Directions (SMD) does not adequately require staff to consider human rights in the development of SMDs.

Finding 17:

The period of 7 days is too long a period between reviews of Special Management Directions.

Special Management Directions and Segregation

As part of its 2023 NPM Isolation Review, OICS raised concerns about the isolation of young people under SMDs and other arrangements without proper lawful authority (in contrast to, for example, a segregation direction which has lawful authority under the CYP Act). Drawing upon OICS findings in its Healthy Centre Review 2020, our 2023 NPM Isolation Review recommended that:

Children and young people are only ever isolated with legislated, legal safeguards such as access to review processes.

Helpfully, the template SMD form and the CYRIS database prompt decision makers to consider if a segregation direction is necessary in the making of a SMD. The form on CYRIS states:

Note: If alone in unit, consider if a Segregation Order applies and provide comment on why it is not Segregation (i.e. only female in Centre).

However, in reviewing the SMDs made during the review period which prevented a young person mixing with other young people for school, programs or meals, and several required the young person to be detained in the 'holding' section of the Coree Unit, the Review found:

- One had no corresponding segregation direction made under the CYP Act or other clear lawful basis for the segregation.
- The remainder often commenced with a corresponding segregation direction (for safety and security purposes) but these were generally only in place for a period of 4–7 days. This was presumably for the Centre to assess to respond to the young person's behaviour. The SMDs then continued to impose isolation requirements beyond this time, often for several weeks, with no corresponding segregation or other lawful direction.

Finding 18:

Previous recommendations made by OICS to ensure that children and young people are only ever isolated pursuant to lawful purposes, with legislated, legal safeguards such as access to review processes have not been implemented. Decisions to isolate young people under documents with no clear legislative basis, such as Special Management Directions, continue to be made.

2.3.3 Use of force and restraints

According to the *Children and Young People (Use of Force) Policy and Procedures 2022 (No.1)* a use of force means the amount of effort required to reduce an immediate risk and to maintain the safety and security of a young person or other people. Use of force includes body contact and the use of instruments of restraint.

OICS standards require that a use of force, including the use of any form of restraints, is only used to prevent an imminent and serious threat of self-harm or injury to others, an unacceptable risk of imminent escape, and only when all other less restrictive means have been exhausted.

Bimberi has both a notified Use of Force Policy and Procedure and a Use of Force Practice Guideline. The Practice Guideline describes a use of force as the physical effort applied by one person to another person to reduce an immediate risk to safety and/or security of the person to which force is being applied or to another person. The practice guideline notes that a Youth Detention Officer, transfer escort and escort officer may be criminally liable for excessive use of force, and that staff must not use force to achieve compliance with a reasonable direction.

The interaction between notified policies and unpublished practice guidelines are discussed at [2.5.5](#).

Current and former detained young people provided divergent views on uses of force at Bimberi. Some suggested that some Youth Detention Officers ‘genuinely wanted to help us’ and were unlikely to use unnecessary force or would only use force proportionately. However, it was also suggested that some Youth Detention Officers would be quicker to use force, use force when it was not necessary or use more force than was necessary.

As discussed at [2.1](#), there is an inherent conflict in Youth Detention Officers seeking to be mentors to young people, and also being involved in restraining young people.

Comments from formerly detained young people:

“You need to sperate the counsellors from the screws, [otherwise] you are not going to build up trust with someone”

“You shouldn’t have to talk to [Bimberi] Youth Workers about your feelings”

It is positive to note that the total number of uses of force per year at the Centre is trending down.

Table 1: Use of force incidents at Bimberi 2017/18 to 2023–24

Year	Use of force	Number of young people in Bimberi on avg day
2017–18	178	15
2018–19	152	10
2019–20	269	16
2020–21	157	10
2021–22	108	13
2022–23	169	19
2023–24	114	17*

Source – Bimberi Headline Reports to May 2024 updated with OICS analysis of 2024 data.

* To 31/12/2024

De-escalation also appeared a focus in use of force training and guidance. The training manager suggested to the Review that new recruits are encouraged to de-escalate (to prevent a use of force) and avoid inherently dangerous restraint techniques (eg prolonged prone restraint). The Practice Guideline is also clear that:

Staff must not use force to achieve compliance with a reasonable direction. Staff must not exert physical force in the form of a pressure point hold. Young people are not to be restrained using the prone position, double basket or the double-seated embrace. Staff must not use force that deliberately causes harm, pain or injury, or is degrading or humiliating or as a form of punishment.

...

Before using force youth workers, transfer escorts and escort officers must consider and/or employ alternative strategies such as:

- responding to cues indicating the potential for escalation of threatening or disruptive behaviour
- withdrawal from the situation
- discussing the concerns/problems/issues with the young person
- reflective listening and feedback to demonstrate to the young person that their concerns have been heard and understood
- attempting to de-escalate the situation by facilitating a conflict resolution process and/or meeting with the people concerned
- involving other youth workers
- involving a health professional or other suitable person
- being clear with instructions while remaining calm and respectful
- the use of the young person's cabin or an alternative space or room.

A senior staff member also told the Review that it was appropriate for individual Youth Detention Officers to opt out of using force against a particular young person if they were not comfortable, where safe to do so, including so as not to jeopardise their relationship and rapport with that young person. This demonstrates the inherent tension between a Youth Detention Officer's role including both building rapport with detained young people and using force to restrain those young people.

Members of the Review Team observed a use of force first-hand, while visiting the Centre to report back to young people on the results of the 2023 NPM Isolation Review. In that case a verbal altercation between a detained young person and a youth worker escalated to the extent that the detained young person lunged towards a Youth Detention Officer, and other Youth Detention Officers in the room restrained the young person. The impression members of the Review Team gleaned from that incident is that de-escalation was not emphasised prior to the point the incident became physical.

The Review Team also observed some specific uses of force recorded on CCTV. In the main, of the incidents observed by the Review Team, staff appeared to use appropriate restraint techniques. It should be noted that the ACT Public Advocate and Children and Young People Commissioner (PACYPC) inspects the use of force register at least once every three months and can make further enquiries about any incidents they have concerns about.

The Review Team wishes to note one particular use of force it observed via CCTV recording, in which a young person was restrained on the basis, according to the incident report, he was attempting to run away from several Youth Detention Officers who were accompanying him from the education building back to his unit. Based on the CCTV footage (and noting inherent limitations including lack of audio) the young person did not appear to be making a serious escape attempt – and certainly not from secure custody (eg seeking to breach the perimeter fence for example) but rather was smiling and skipping away from staff, perhaps in a goading manner. This incident raised a question in the Review Team's mind about the necessity and proportionality of use of force and restraint in this circumstance. This incident would not appear to meet the threshold for use of force in the Standards for there to be an 'unacceptable risk of imminent escape'. While only a single example, the Review Team suggests this is consistent with a generalised low tolerance of risk within the Centre.

The Review Team learnt of a young person sustaining a broken bone as a result of a use of force, which occurred in August 2023. Records indicate that the young person was taken to hospital after a use of force, where he was diagnosed as suffering from a fractured rib. He was returned to Bimberi the following morning. A use of force that results in a person being admitted to hospital must be referred to OICS as a 'critical incident' under the CI Act and this incident was not reported to OICS. The Review Team confirmed that the Public Advocate was aware of this matter, given the apparently significant injury. Bimberi management advised the Public Advocate that the restraint used initially 'had room for improvement' but that overall the response was 'reasonable and necessary'. Bimberi management confirmed to the Public Advocate that the relevant staff member received training in behaviour management and refresher training on use of force.

The Review Team notes that body worn cameras would provide greater accountability and oversight of incidents, including providing audio.

Health and other supports

The Review Standards require that any injuries and incidents, including arising from a use of force, are closely monitored and recorded. Section 223(5) of the CYP Act requires that the Director-General **ensure** that a detained young person injured by a use of force is examined as soon as practicable by a treating doctor. However, the relevant policy implies the assessment of injury is made by staff. The notified policy (and the practice guideline) requires that:

6.15 The treating doctor or a nurse must be notified every time a use of force is used against a young person.

6.16 If force is used against a young person that has caused an injury to the young person, the Manager or Team Leader must ensure the young person is examined as soon as practicable following the use of force by a treating doctor or nurse and that appropriate health care is available to the young person consistent with the Health and Wellbeing Policy and Procedures. An injury includes any injury to the young person's body observed by a staff, such as bruising or marks, or any injury or potential injury identified by the young person, such as a complaint of pain to a body part.

6.17 If force has been used against a young person that has not caused an injury to the young person, the Manager or Team Leader must ensure the young person is offered a medical examination by a treating doctor or nurse as soon as practicable following the use of force. If the young person accepts the offer of a medical examination, the Manager or Team Leader must ensure the medical examination is arranged as soon as practicable and that appropriate health care is available to the young person consistent with the Health and Wellbeing Policy and Procedures

For those uses of force recorded during 2022–23 that did not involve a 'compliant restraint' (n=48) (eg mechanical restraint only for the purposes of moving a young person), 3 were recorded as resulting in an injury to the young person. Of those 3, the report prepared for the ACT Insurance Agency indicates that 1 did not require treatment.

The Review Team is concerned that current policy places the obligation on Youth Detention Officers to assess if a young person is injured or not after a use of force for the purposes of s 223 of the CYP Act. If the Youth Detention Officer assesses that the young person is injured, then they take the young person to see a health practitioner. If the Youth Detention Officer assesses the young person is not injured, they simply offer the young person the option to see a health practitioner. The Review Team believes that the offer of health assessment should be made by the JHS nurse, as they have a clinical background and a degree of independence from the detaining entity. The young person would then still have the option to refuse assessment.

The Review Team heard anecdotal reports of young people initially not seeing a health practitioner after a use of force (eg declining the offer put to them by a Youth Detention Officer involved in the use of force), then subsequently, a day later, asking to see the nurse. The implication being that this visit was to treat injuries sustained during the use of force.

The Review Team is also concerned about how young people are supported after witnessing a use of force. Multiple stakeholders suggested to the Review that young people, many of whom have experienced trauma in their lives, are further traumatised by witnessing uses of force involving other young people.

Relevantly, the Review Team viewed extracts from Bimberi’s Riskman system, which is used to record and report on work health and safety risks, as informed by *ACT Public Sector Responding to Workplace Accidents/Incidents Policy* and sections of the WHS Act. The extracts include entries under the subject heading of ‘vicarious trauma’, which relates to any workers who observe a use of force. This can include control room staff or other workers in the duty point not required to engage in the restraint but who observe it. Bimberi requires staff to enter these in Riskman to capture exposure data and responses.

This process demonstrates the effect on a person of witnessing a use of force. The Review Team suggests that it is important for all people ‘involved’ in a use of force, including witnesses, to be offered independent support after a use of force. The Practice Guideline appears to contemplate this support being offered to staff as well as young people.

Staff and young people involved in a use of force incident must be offered debriefing and support as soon as possible after the incident has occurred.

However, this intent would appear to be undermined by Youth Detention Officers involved in a use of force being the person to offer that support to young people.

Finding 19:

Bimberi policy does not provide adequate opportunity for a young person involved in a use of force, including as a witness, to access medical assistance and mental health directly. The procedure would be improved if all young people were taken to the nurse after a use of force, so that a health practitioner can assess all young people for injuries. A Youth Detention Officer not directly involved in the use of force should accompany the young person to the nurse.

Internal reviews of uses of force

Bimberi staff explained to the Review Team that after a use of force, there is a debrief facilitated by the Chief Warden (Unit Manager in most circumstances). CCTV footage is also reviewed by Unit Managers and discussed with the staff involved, as appropriate. In relation to ‘incidents’, these are reviewed by a Unit Manager, the Operations Manager, Centre Manager and Executive Branch Manager/Executive Group Manager, including any use of force after the incident.

Nonetheless, the Use of Force Policy and Practice Guideline do not provide for a forum for reflective practice after a use of force. The Review Team considers that a more formalised and documented process for reviewing uses of forces is required, that has a structured framework that requires reflective practice, continuous learning, and is documented for transparency. For example, the Tasmanian Ashley Youth Detention Centre (AYDC) recently established an Incident Review Committee to review use of force incidents.⁴⁴

Based on the findings of the Tasmanian Royal Commission, the Tasmanian Custodial Inspector recently recommended that young people’s perspectives should be sought after every use of force at AYDC so that this could be considered by the Committee. The Inspector also recommended that this new committee’s terms of reference include the appointment of community members, including a Tasmanian Aboriginal community member.⁴⁵

44 Department for Education, Children and Young People, *Keeping Kids Safe: A plan for Ashley Youth Detention Centre until its intended closure* (Report, 2022), 21.
45 Office of the Custodial Inspector Tasmania, *Youth health care inspection report 2023*, (Report, 2023) 24.

Recommendation 9:

Bimberi introduce a formal use of force review committee to review every use of force, which includes written terms of reference that focuses on reflective practice about whether the use of force complied with policy and procedures and opportunities for any other improvements. The Committee should include senior management and operational staff, as well as the Principal Practitioner and Training Manager. This Committee should seek views of detained young people involved in the use of force, with appropriate support from external agencies.

Use of Restraints

The OICS standard is that restraints are only used as a last resort and for the shortest time required. The use of force, including the use of any form of restraints, should be not humiliating or degrading.

The notified policy states that a use of force includes an instrument to restraint and should be an option of last resort. Further, under paragraph 6.12, the policy states:

6.12 Instruments of restraint must only be used with approval from a Manager, if time permits. The Manager must ensure, as far as practicable, that the use of force involving an instrument of restraint is proportionate to the circumstances and in particular that:

- (a) the circumstances are sufficiently serious to justify the use of the restraint
- (b) the kind of restraint is appropriate in the circumstances
- (c) the restraint is used appropriately in the circumstances

6.13 When deciding whether to use an instrument of restraint as part of or during a use of force, youth workers, transfer escorts and escort officers must consider whether the use of an instrument of restraint is proportionate to the circumstances.

CSD told the Review that most young people are restrained following an individual risk assessment of leave, but not all young people.

However, after speaking to staff and young people, the Review Team identified that staff will generally always restrain all young people on health or compassionate leave when outside the Centre. Staff will only briefly remove restraints when necessary for medical tests, procedures etc. This practice is inconsistent with Bimberi policy, and arguably a disproportionate limitation on human rights. Relevant rights would include humane treatment when deprived of liberty and the right not to be subject to inhuman or degrading treatment. Staff applying restraints at all times is stigmatising for young people. Young people reported to the Review they would prefer to apply for day bail in the Childrens Court rather than apply for leave from Bimberi, due to use of restraints. This is a poor use of the Court's time and represents an overly risk adverse approach from Bimberi.

Finally, the practice of restraining a young person during a visit to a health professional also risks undermining the relationship with health professionals and is inconsistent the principle that young people receive health care commensurate to that in the community. Staff reported to the Review Team that restraints would generally remain in place even during the health consultation, unless the health professional requested their temporary removal for the purposes of a specific examination. The Review Team considers the Centre should take further steps to ensure that restraints are only used on escorts based on an individualised risk assessment, which adequately weighs the impact of restraints on the human rights and wellbeing of the young people with other risk factors.

Finding 20:

The practice of restraining young people for escorts and leave, as a default position, is an arbitrary interference with their human rights, stigmatising and inconsistent with a human rights-based individualised risk assessment approach. This raises a question as to whether such restraints are lawful, and amount to degrading treatment.

2.3.4 Segregation and other forms of separation

In July 2023, OICS undertook a thematic review into the *Isolation of children and young people at Bimberi Youth Justice Centre*. Therefore, segregation and isolation were also not a specific focus of this review. Where applicable in this review, the Review Team has highlighted recommendations from the 2023 review that have not been implemented but remain relevant.

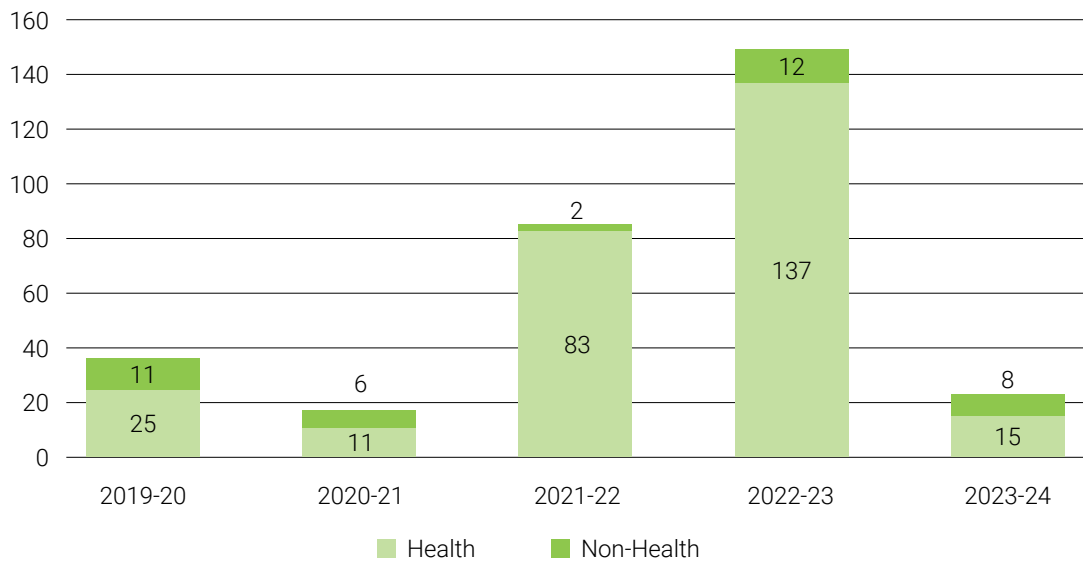
A promising practice identified in this review is that incidents of ‘time out’ have reduced this financial year. According to the Bimberi Handbook, a timeout is a strategy a young person and Bimberi staff can use to help the young person regulate their emotions by safely securing them in a room. The relevant notified policy describes these as 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’.⁴⁶ It is often described as a ‘reset’ and the Review Team understands these usually occur in increments of 10 minutes.

However, as noted in OICS 2023 NPM Isolation Review, Bimberi implemented a new BMF in 2023, amending former ‘time out’ practices and introducing a range of other communication and intervention strategies. However, the *Children and Young People (Behaviour Management) Policy and Procedures 2018 (No 1)* remains unchanged since the new framework commenced. As discussed at 2.5.5, OICS repeats its concerns that it is important that the relevant policies and procedure are consistent with the framework, including because human rights restrictions may be subject only to reasonable limits set by laws.⁴⁷ Currently, the new BMF is not law.

⁴⁶ *Children and Young People (Behaviour Management) Policy and Procedures 2018*.

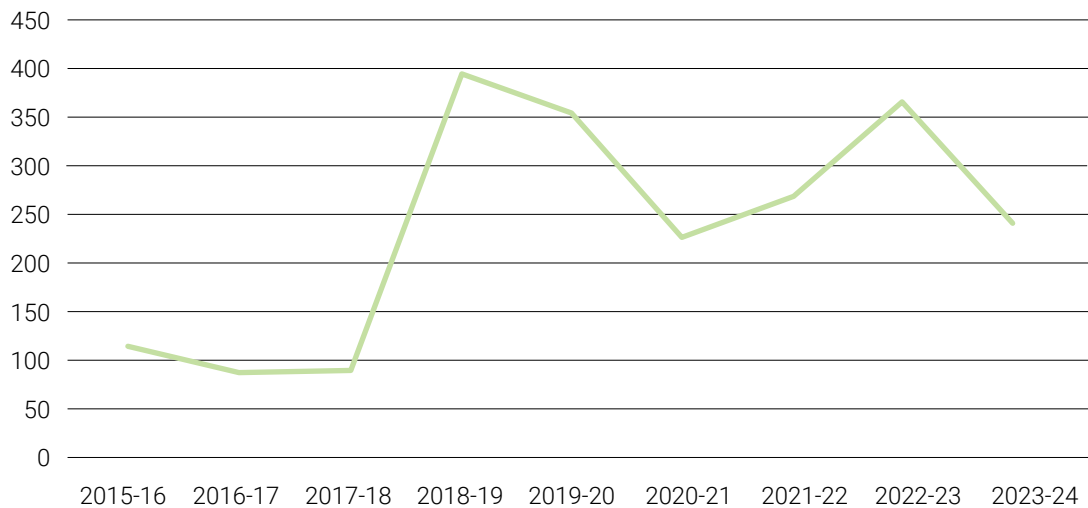
⁴⁷ *Human Rights Act 2004* s 28.

Figure 4: Segregation directions issued at Bimberi



* These are a count of directions made, not the number of individual detained young people segregated.
Source: ACT Human Rights Commission Annual Report 2022–23, Bimberi Headline Indicator Report May 2024, updated by OICS for 2023–24.

Figure 5: Occasions of time out



Source: ACT Human Rights Commission Annual Report 2023–24

Mediation

If conflict arises between detained young people, particularly involving physical violence, Bimberi will usually separate them from each other, and staff will generally impose a segregation direction for at least one of the young people.

In an effort to allow the young people to mix together again at the Centre, the Review Team heard that the Centre may attempt mediation. This typically involved a senior Youth Detention Officer convening a meeting between the two young people to speak about the reasons for the assault and if they would agree to resolve these issues.

Whilst many Youth Detention Officers have a good rapport with young people and may have communication skills that enable them to mediate effectively, the Review Team understands that Youth Detention Officers are not usually trained in formal mediation techniques. The Review Team suggests that the Centre should continue to attempt such mediation, but do so in a more formal way. For example, Bimberi could train staff (such as the Support and Services Team or senior Youth Detention Officers) in mediation techniques, or engage an external provider such as the Conflict Resolution Service to convene these mediations.

Finding 21:

Bimberi’s attempts at mediating conflict between detained young people would be improved through further formal training for Youth Detention Officers or engaging an external service provider with specialist mediation skills.

2.4 Security

OICS Review Standards define the term ‘security’ as referring to physical security (such as infrastructure, locks, cameras, alarm systems, scanners, metal detectors, radios, handcuffs), procedural security (processes and procedures to keep detained young people safe and prevent escape) and dynamic security (positive interactions between staff and detained young people that leads to greater chance of early identification and prevention of issues). Importantly, restrictions based on security grounds should be the least restrictive possible in the circumstances, and be lawful, necessary, proportionate, accountable and non-discriminatory in nature. Where higher security or further restrictions than the default position are imposed they should be based on an individual risk and needs assessment.

As noted in Healthy Centre Review 2020, Bimberi does not have different accommodation units based on security classification and risk.⁴⁸ The physical design and approach to procedural security in Bimberi is essentially a medium to high security facility.

As noted at the outset of this report, due to recent security-focused reviews, this review did not focus on security in depth. However, the Review Team observed various aspects of security in operation including in relation to cameras, alarms, Personal Protective Equipment, intelligence and noted the key elements to be in place and functioning. Dynamic security was the norm in that Youth Detention Officers were ‘on the floor’ engaging with young people rather than in the duty point away from young people.

The Review Team noted that scanning of items on entry to Bimberi was compromised by a gap of a few centimetres above the scanner. The Review Team observed a staff member slide paper through this gap rather than putting the item in a tub to go through the scanner. These means to circumvent the scanner should be addressed.

48 Although the Bendora 1 unit is predominantly used for low-risk young people.

As noted elsewhere in this report, the Review Team's overall assessment is that physical and procedural security (for example, sparse furnishing in the units, no physical contact at visits as default; use of restraints by default for external escorts; centre-wide lock down in response to all codes) is given greater weight than dynamic security.

Infrastructure and systems

OICS Review Standards require that the Centre effectively manage work health and safety and other systems, including that systems and equipment are secured safety or upgraded to ensure serviceability and effectiveness. At 3.3.1 of this report the poor condition of the Centre's air-conditioning systems are discussed.

Further, the Review Team considers that Bimberi's aging ICT infrastructure is not meeting current needs. This challenge is exacerbated by the fact that whilst the ACT Government ICT support is available on call, there is a lack of specialist ICT support onsite. This places unreasonable demands on certain Bimberi staff who must manage the situation in relation to IT issues.

Finding 22:

Bimberi's ICT hardware requires comprehensive updating and there is insufficient onsite support available to maintain its various ICT systems.

2.4.1 Searching

Searches of detained young people

Under the CYP Act, staff may lawfully preform the following personal searches on a detained young person:⁴⁹

- 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.

Staff must conduct the least intrusive search that is necessary and reasonable in the circumstances.⁵⁰ A person of the same gender as the detained young person must conduct the search. A transgender or gender diverse detained young person may select the gender of the person who will be searching them.

Staff may conduct scanning, ordinary and frisk searches where it is 'prudent to ensure security or good order' or the staff member holds a reasonable suspicion that the young person is in possession of a prohibited item.⁵¹

49 Children and Young People Act 2008 Chapter 7 Part 7.

50 Children and Young People Act 2008 s 248.

51 Children and Young People Act 2008 s 252.

Preventing the use of strip searches

OICS ACT Standards for Youth Detention Places 2024 introduced a new standard that Bimberi staff do not conduct strip searches and instead use body scanners or direct observations of detained young people if concerned that a detained young person is concealing a prohibited item.

This standard is based on an emerging acceptance in international human rights practice about the harmful impact of strip searching, lack of evidence that it makes places of detention more secure and availability of technological alternatives. This includes, for example, studies documenting that strip searching yields low finds of prohibited items and research documenting that strip searching is a traumatic experience for a young person to undergo in detention, and damages relations between staff and detained young people.

The ACT's adult prison, the AMC, has reduced the use of strip searching through the installation of body scanners. For example, from 1 January to 30 June 2023 there were 185 strip searches at AMC. For the same period in 2024, this number had reduced to 60.

Members of the Review Team also visited a youth detention centre in NSW and heard that the introduction of a body scanner there, coupled with scanners at other key points (eg courts and all other youth detention centres) had reduced strip searching. The ability for Centre staff to body scan young people if necessary, also made the Centre more confident in allowing young people to mix and have physical contact with visitors. On the day the Review Team visited, the Centre celebrated NAIDOC with an open-air lunch attended by all young people except one person who had newly arrived and was sleeping. Family of detained young people and other visitors were able to mix relatively freely with detained young people including through physical contact.

Similar technology at Bimberi would make detention more humane for young people and improve safety and security through effectively detecting contraband. The government should also consider the installation of similar technology at the ACT City Watch House and court cells to prevent the need for staff to strip search a young person at any point during their journey through detention.

The Australian Government noted the following in its 2024 response to the United Nations Committee against Torture:

*30. The increasing use of body scanners across jurisdictions is significantly reducing the use of semi-naked searches. Most jurisdictions use body scanners in correctional facilities, including youth justice facilities, with a goal of minimising the need for personal searches*⁵³

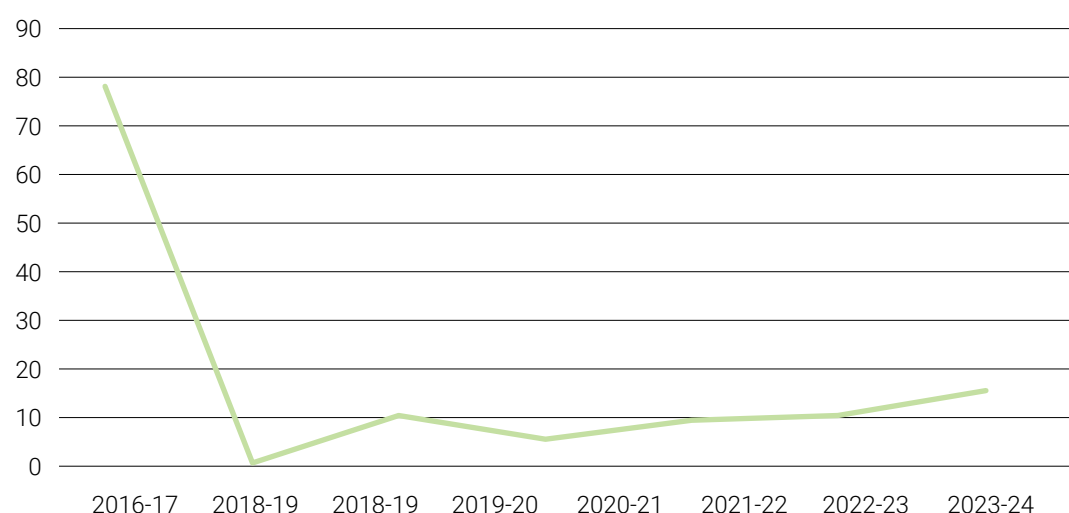
52 Australian Government, 'Information received from Australia on follow-up to the concluding observations on its sixth periodic report, Communication to the Committee against Torture, UN Doc CAT/C/AUS/FCO/6, 13 May 2024 [30].

Table 2: Strip searches of detained young people

	2016-17	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Number of Strip Searches	78	0	10	5	9	10	15
Number of Contraband found from search ⁵³	unknown	0	1	0	2	4	0
Number of young people in Bimberi on Avg day	unknown	10	16	10	13	19	17
Number of strip searches per avg population	unknown	0	0.6	0.5	0.7	0.5	0.9

Source: Bimberi Headline Indicator report (to 31/12/23) and OICS analysis of 2024 data.

Figure 6: Strip searches across the Centre



OICS Review Standards states that staff generally do not strip search young people at all. The standard further provides that if staff do strip search young people, the search must be the only option, such as in an emergency or when alternative technology is not available. In such circumstances, staff must conduct the strip search on reasonable grounds, in the least restrictive manner and be respectful of young person's dignity.

The Review Team finds that the standard is partially achieved as in the absence of alternatives, Bimberi staff continue to conduct strip searches.

⁵³ As compared to contraband surrendered or found before the strip search. Items included glass lens, a pen, piece of wood and small metal clip.

The Review Team is not aware if CSD has sought budget funding to procure a body scanner at Bimberi. While such technology may represent a significant investment, it is disappointing that as a human rights jurisdiction the ACT has not led the way on utilising such technology. Such technology could have avoided the need to previously strip search young people as young as 10 years old, and currently as young as 12 years old. This is particularly surprising when other jurisdictions that do not have legislated obligations to consider human rights in decision-making, such as New South Wales, use body scanners routinely in youth detention centres.

The Review Team heard no issues concerning the strip search procedures, but were concerned to see the number of strip searches rising in comparison to earlier years.

In Healthy Centre Review 2020, OICS identified that a CCTV camera was inappropriately placed in the Coree Unit. During this review, OICS confirmed that this issue has been rectified.

The ACT is one of the last Australian jurisdictions to permit a body/cavity search of a young person in detention. OICS Review Standards do not permit such searches and while the Review Team found no evidence of such searches being conducted at Bimberi, recommend that this legislation be repealed.

Recommendation 10:

The ACT Government:

- a) Repeal s 246 of the CYP Act, thereby preventing any form of body/cavity search involving a child or young person.
- b) Expedite the procurement of body scanner technology at Bimberi, ACT Watch House and ACT court cells, and prohibit the use of strip searches in legislation.

2.5 Leadership and management of safety, resources and systems

2.5.1 A strategic vision

The relevant OICS Review Standard and indicator for a detention centre’ strategic vision is

A strategic vision informs a comprehensive plan of the youth detention centre’s general aims, principles, values and strategic action.

The youth detention place’s management team, in consultation with other staff, formulate a vision and clear goals for the youth detention place in the form of a strategic plan or similar. The goals are translated into clear and measurable objectives.

This standard must be viewed in the context of changes in the broader youth justice system in the ACT (including raising of the age of criminal responsibility) and nationally (including the implementation of OPCAT). The ACT Government agencies responsible for the youth justice system and the broader justice system are discussed at [Part 1.6](#).

As the Australian jurisdiction with the longest experience implementing international human rights standards in domestic legislation, the ACT is often expected to be a leader in protecting the rights of detained young people.

The Government's stated purpose for Bimberi

As part of this Review, OICS searched for sources of information to clearly identify Bimberi's purpose and strategic vision, particularly in light of significant reforms in ACT's youth justice system, including:

- The age of criminal responsibility being raised to 14 years of age subject to exceptions from 1 July 2025 (building on a recent increase to age 12 years). This means that there will very rarely be anyone younger than 14 years old in Bimberi from mid 2025;
- The establishment of a therapeutic support panel to consider placements for 'at-risk' young people (including those younger than 14 years); and
- Reforms to the case management system for young people involved in both the care and protection and youth justice systems.

The Review Team found several clues to the ACT Government providing a strategic direction for Bimberi in the broader youth justice system, but no definitive articulation of the Centre's purpose. For example, the now expired 'Blueprint for the Youth Justice System 2012–2022' (Blueprint for Youth Justice) set out long-term goals of:

- A community where fewer children and young people are engaged in or at risk of offending.
- Children and young people and their families, at risk of or involved in the youth justice system, receive every possible opportunity to get back on track and live healthy, happy and fulfilling lives.
- The ACT community is a safer and better place to live.

Of the aims of the Blueprint, the most relevant to Bimberi is: Children and young people are given every possible chance to be successfully reintegrated into the community upon leaving detention.

Strategy 5 of the Blueprint appears most relevant to Bimberi. It is: "Connecting and reintegrating children and young people into a home and the community through effective throughcare."

In some cases detention provides an opportunity to identify and address the circumstances that lead to offending. The work in detention will only be successful if it is part of a planned program of supports in the community upon a young person's release.

At the time of the review, the CSD website discussed Bimberi in the following way:

- At Bimberi young people are supported to understand, address and take responsibility for their actions that led them to come into Bimberi. They are supported to get back on track, continue learning and build skills, avoid future criminal behaviour and return confidently to the community through a range of programs and services. Bimberi does this by providing a safe, secure, supportive and rehabilitative environment for young people in custody.

The CSD website further stated:

- Bimberi contributes to the Community Services Directorate's goals of giving young people a 'positive start' and 'support to grow and develop'. The strategic direction for youth justice in the ACT is set out in the Blueprint for Youth Justice in the ACT 2012–22. The Blueprint has a focus on early intervention, prevention and diversion – custody is a last resort.

However, there was no definitive statement about Bimberi's purpose. Further, the status of the Blueprint is unclear given it has expired.

The Review Team was unable to identify a clear strategic or other document setting out the purpose of Bimberi, and so finds that this standard was not met.

The closest relevant document is the expired Blueprint for Youth Justice, which the ACT Government developed in response to the ACT Human Rights Commission's 2011 review of the youth justice system. That review noted that the vision for Bimberi, and the broader youth justice system, was not fully understood or supported by all staff at that time. That review considered the views of current and former executives:⁵⁴

"We are not clear on the systemic role of Youth Justice and Bimberi's place in achieving the goals."

"One of the biggest challenges is determining "what is the purpose of Bimberi and the broader youth justice system?"

"We don't have a vision for youth justice in the ACT, and how Bimberi fits into that vision. We need a more clearly articulated vision for what a human rights youth justice system looks like and what a human rights compliant Bimberi looks like."

"The facility was purpose built for a less custodial culture. We need to be better at developing a story and communicating the story."

"Our messages are very reactive. The emphasis is all about security. We have failed to send out strong messages about what Bimberi is about. When the media got involved and it got into the political domain then debate shut down."

"The act of courage is to hold the line that Youth Justice is not about stopping youth crime it's about helping vulnerable young people. It is by focusing on developmental outcomes for these children that we stop juvenile crime."

For this review, OICS asked all staff their thoughts on Bimberi's purpose via an anonymous online survey. Staff responses to this question echo many of the responses provided to ACTHRC in 2011, and also reveal inconsistent views about the Centre's purpose.

"The purpose is made to appear to be the rehabilitation and reintegration of young people back into the community. In reality the priority is to provide supervision and care for young people between the ages of 12–21 years old that have allegedly committed and offence while continuing to act in the best interests of the centre e.g. risk mitigating and minimisation."

"A circuit breaker for young people in the middle of a crisis. Supporting them to recalibrate and re-engage, and continuing that support upon their release."

54 These quotes are drawn from interviews the ACTHRC conducted with former management, as well as a separate report prepared by consultants for the ACTHRC review. The consultants spoke with 16 executives across the Community Services Directorate in 2011, including the Director General, Deputy Director General and a number of former and current executives with responsibility for the Children and Young Peoples division, and two other people with responsibilities associated with Bimberi and the HR review. See ACT Human Rights Commission, *The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission* (Report, July 2011) Appendix B: Report to the ACT Human Rights Commission on Structural and Organisational Arrangements to Support Reform in ACT Youth Justice by Gail Winkworth and Michael White.

"To contribute positively in aiding the young people in our care to understand their worth, that they have a place in the society, that they are loved and cared for, and to assist them in building the basic life skills to help them be better people and how to socialise in the community appropriately and to build on and hold onto 'Hope' throughout their lives."

"Just a regular 'Justice Centre'. To be honest, 'Therapeutic' approach does not work in here. Straight up, whoever came with this has not been on the floor or witnessed the hard days. The kids we get are too diverse for this space. The approach needs to be "real" life experience approach. From coaches/mentors who actually know how to explore it. Not these university people."

"To provide a safe and contained environment to address the factors associated with offending in young people within the criminal justice system."

"To provide a safe, trauma-informed and recovery focused to young people who have been involved with the justice system, in reducing their ongoing risk of recidivism by providing support in education, occupation, health etc."

"Keep YP [young people] safe."

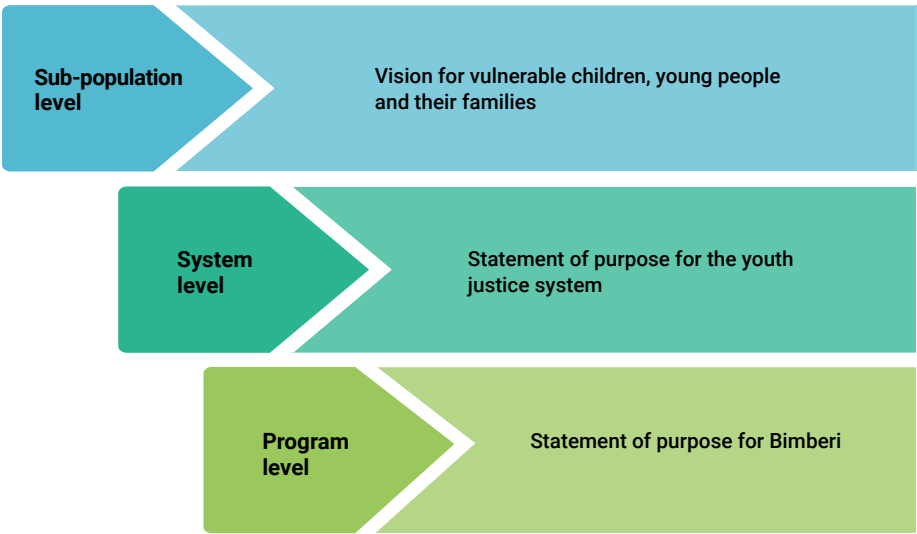
"I genuinely feel like it's a good place for YP's [young people] but it does feel like just a boarding school until YP's [young people] can go back out into the community and do the same thing. Not to be negative but I've just seen it happen too many times."

"If Bimberi's ultimate purpose is to stop Young People coming back then it is failing. However I think this is as much to do with outside supports for the Young People failing to meet their needs and not engaging effectively with them while they are in Bimberi."

The Blueprint for Youth Justice 2012–2022 undoubtedly set out a vision for the ACT youth justice system, although not necessarily for Bimberi. Further, that Blueprint has expired, and in light of the significant reforms happening to the broader system, there is again uncertainty about Bimberi's purpose. This is both a challenge and opportunity for the ACT Government. The cascading vision set out in the ACTHRC's 2011 review is a useful framework to consider this work:⁵⁵

55 ACT Human Rights Commission, *The ACT Youth Justice System 2011* (Report, July 2011) 92.

Figure 7: Cascading visions for vulnerable young people



Finding 23:

In light of the broader reforms to the youth justice system, Bimberi’s role is unclear. Recent systemic changes provide an opportunity for the ACT Government to articulate how the Centre’s success is measured by the Government.

Recommendation 1:

The ACT Government articulate a strategic purpose for Bimberi, and a corresponding model of care. This should be publicly available and developed through a comprehensive, transparent and inclusive consultation process.

2.5.2 Record keeping

The OICS Review Standards require that Bimberi keeps up-to-date, well-organised, secure and permanent records of key information. Record keeping is an important element of good governance and essential for transparency and oversight, including of restrictive practices such as use of force and segregation.

The Public Advocate is required to inspect the register of searches and use of force at least once every three months.⁵⁶ In practice, they do this monthly, and also inspect the registers of lockdowns, timeouts and incidents.

In its Healthy Centre Review 2020, OICS noted that CSD was transitioning to a new electronic database known as CYRIS. In June 2024, OICS was provided access to CYRIS for the purposes of this review. In the main, the Review Team found that the recording of information on CYRIS met the review standard, with two caveats:

- The need to create a comprehensive lockdown register was discussed in Healthy Centre Review 2020, the 2023 NPM Isolation Review and is repeated at [4.1.2](#) of this report.
- The Review Team observed a potential gap in the recording of lockdowns in CYRIS, in light of some emergency codes that were called while the Review Team were on site not appearing in the relevant CYRIS register (see [4.1.2](#)). We cannot comment on how widespread this issue is as we can only comment on codes we observed while on site.

2.5.3 Cooperation and information sharing between Directorates

The effective operation of Bimberi requires good cross-Directorate working relationships between CSD, ACT Health and the Education Directorate. OICS's Healthy Centre Review 2020 identified concerns about inter-Directorate relationships and information sharing practices.

In relation to information sharing, the OICS Review Standards require that information relating to individual detained young people 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 person. It is important that staff working at Bimberi fully understand what sort of information other Directorates working in Bimberi require 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.

The Review Team noted a number of positive practices of inter-directorate cooperation discussed in Healthy Centre Review 2020 are continuing, including:

- The regular morning briefing at shift change, attended by Bimberi operational and management staff, Support and Services staff, health, and Murrumbidgee School staff. These meetings allow quick and timely operational updates including matters affecting the health and wellbeing of young people.
- Efforts to align behavioural management tools used at Murrumbidgee School and Bimberi. For example, young people can now earn incentive points while they are at education. This is discussed further at [4.2](#).
- The development of Support and Engagement Plans by the Principal Practitioner to be implemented by staff across the Centre. This is discussed further at [3.2.5](#).

⁵⁶ Children and Young People Act 2008 s 195(6).

This Review also found considerable improvement in other areas, driven by strong relationships between key staff in CSD, Education and Health, and a commitment by the CSD Principal Practitioner to drive this collaboration further. By way of example, the Client Services meetings were found to be a far more effective mechanism in this review than previously (see 5.3.1).

Nonetheless, the Review Team finds this collaboration can be further improved, particularly the conduct of Care Team meetings (discussed at 5.3.1) and a more strategic approach to the identification and funding of programs (discussed at 5.4). The ACT Government providing Bimberi a dedicated funding source for programs would assist this work.

2.5.4 Staff

In relation to CSD staff, Bimberi's custodial staff profile is primarily structured to support its operational model of four accommodation units (including one for admissions and segregation). Each unit is divided into wings. The staffing structure provides for Youth Detention Officers to report to Team Leaders, to then report to a manager responsible for that unit.

Other functions undertaken by Youth Detention Officers include staffing the control room (usually 2 workers) and escorting young people outside the centre. CSD-employed staff at Bimberi also include a Centre Manager, Deputy Centre Manager, Operations Manager, Intelligence and Classifications Manager, Principal Practitioner, Programs and Services Manager, Training Manager, Family Engagement Officer (who has a particular focus on Aboriginal and Torres Strait Islander young people), WHS Officer, Sport and Recreation Officer, Business Manager, an administrative team, chefs and grounds and facilities staff.

Additional staff at the Centre are provided by Education (discussed at 4.2) and Health (discussed at 3.3).

Despite some service providers expressing a desire to work with detained young people without Youth Detention Officers present, the norm is for Youth Detention Officers to be present for all education and programs. However, this has not always been the case. The 2011 ACT Human Rights Commission report noted that:

Until late 2010, youth workers attended class with young people during the school day to provide supervision, but this no longer occurs for every class.⁵⁷

Members of the Review Team visited a NSW youth detention centre and observed that Youth Detention Officers would usually not attend education classes with young people, but would be available outside the classrooms if a teacher decided their presence was needed.

This is further evidence of how Bimberi's current risk assessment processes is leading to an outsized focus on security compared to previous practices at Bimberi and those used at other youth detention centres.

57 ACT Human Rights Commission, *The ACT Youth Justice System 2011* (Report, July 2011) 113.

Staff numbers

As at 31 December 2024, Bimberi had 91.13 FTE permanent and temporary staff, totalling a headcount of 100 staff. Of these, 63 are Youth Detention Officers. Bimberi has an additional 10 casually employed staff. This is an increase from the staff breakdown during Healthy Centre Review 2020 (total FTE of 73.68).

Staff diversity

CSD advised that Bimberi currently has 21 full-time employed female staff, filling 29% of funded positions.

Bimberi also has 9 Aboriginal and Torres Strait Islander staff. One of these is the Family Engagement Officer, which is an Aboriginal-identified position. This represents 9% of Bimberi FTE. This is positive in comparison with the wider ACT Public Service average of 2% of staff identifying as Aboriginal and Torres Strait Islander.⁵⁸ However, as Aboriginal and Torres Strait Islander detained young people on average represent more than 25% of young people at Bimberi (see section 3.2.3) and 34% of admissions to Bimberi during the review period, a higher representation amongst staff is desirable.

An appropriate gender mix is also important in this staffing profile. The Review Team understands that all 3 of the recently recruited Aboriginal and Torres Strait Islander Youth Detention Officers were male and that the Centre currently has no female Youth Detention Officers who identify as Aboriginal and Torres Strait Islander.

Finding 24:

Bimberi's ongoing efforts to recruit Aboriginal and Torres Strait Islander staff would be enhanced with more targeted action to recruit female Aboriginal and Torres Strait Islander staff.

⁵⁸ ACT Government, *State of the Service Report 2022–2023* (2023) 46.

Staff views

"Bimberi is a great place to work at and I am proud to represent what we practice and believe in; however, I believe that more appreciation and attention towards the operational front-line workers require a lot more recognition and attention regarding self-worth, work life balance and wellbeing as the job requires very close interactions with venerable [sic] troubled youths that has such a huge impact on mental health and wellbeing specially [sic] to those who have been a victim of being assaulted and verbally abused. The usual offer for mental health and stress support is referred to by management to seek Employee Assistance Program Services (EAP Services). As mentioned regarding lack of recognition, Bimberi is not even invited to such special events that involve other front-line workers who are invited for recognised accomplishments and achievements. The Australian Federal Police, Hospital and Ambulance Services, Fire Brigade Services, Correctional Officers just to name a few organise and host an annual ball to celebrate the great efforts and work for recognition. Attention towards providing more programs including support into the Behaviour Management Framework, Special Management Direction towards Youths who display challenging and present dangerous [sic] towards operational staff to be considered." (in answer to an open field after questions about working with young people).

"Behaviour management is often difficult for BYJC staff to implement at times given the complexity and presentations of the young people, and they would benefit from having an occupational therapist or other allied health (employed by Bimberi not by health) within the space to help with implementation of behaviour management with additional needs young people. The programs provided are not offence specific as majority of the young people are on remand. This means that Bimberi cannot provide criminogenic work." (in answer to an open field after questions about working with young people).

"Security is more conservative than at AMC." (in answer to an open field after questions about supports for staff).

"At times we get YP [young people] that have mental health conditions that we as staff members are not trained to deal with. This is due to the lack of youth mental health services available in Canberra. This makes our job hard and wears a lot of staff members down. We've lost a lot of good youth workers due to these situations." (in answer to an open field after questions about use of force and de-escalation).

"I enjoy working at Bimberi. I get in well with the other staff and enjoy working with the young people." (when offered opportunity for any further comments).

"Bimberi is better than any other youth detention centre I have been to. They genuinely care about each YP [young people] and they try very hard to make time spent in Bimberi a supportive experience." (when offered opportunity for any further comments).

"I really struggled for a long time about this place but after support from good people within the team, and the Young People (absolutely including them) slowly have come back and refocused on the love for the job." (when offered opportunity for any further comments).

Youth Detention Officer recruitment

Bimberi calls their operational staff 'youth workers', despite the CYP Act using the term 'Youth Detention Officers'. 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. As discussed at 2.1, the model of care at Bimberi creates tension for 'youth workers' between developing a therapeutic relationship based on trust with young people, while having to discipline young people or (according to their job descriptions) at times use force and restrain young people.

Further, while Bimberi can offer staff the opportunity to complete a Certificate IV in Youth Work, not all Bimberi staff have qualifications or work experience in youth work. During the review period staff who were interested in gaining this qualifications were unable to participate in the Certificate IV due to operational constraints. For those youth workers who do have formal qualifications, the ACT Youth Coalition's revised Work Code of Ethical Practice for Youth Work Practice (2023) emphasises the importance of voluntary engagement from young people. This is not possible in detention settings.

Nonetheless, CSD advertising for Youth Detention Officer positions tend to focus on the 'soft skills' of a Youth Detention Officer. For example, advertisements posted in early 2024 stated:

Working in youth justice is about empowering young people to steer their lives in a more positive direction when they return to the community. If you are passionate about changing lives for the better, becoming a youth worker is the ideal place to start.

As youth workers, we empower children and young people to steer their lives in a more positive direction.

We act as role models by:

- Establishing healthy routines and working to a daily structure.
- Redirecting anti-social and challenging behaviour to the positive standards expected by the community.
- Engaging young people in education through ongoing encouragement and mentoring.
- Helping young people to develop positive family and peer relationships.
- Facilitating support from other services such as health and mental health providers, educators, and disability organisations.
- Creating safe and supportive environments.
- While care, supervision, safety and support form the foundation of the role, you will also need strong interpersonal and communication skills.

Again, while the Review Team understands CSD wish to emphasise recruitment of new staff with skills and interests in working therapeutically with young people, a misunderstanding about what the role involves can also lead to staff frustration and confusion about purpose and success.

Experienced Youth Detention Officers also told the Review they feel their role is becoming more complex due to the changing needs of detained young people. While noting there is limited national data, the Australian Human Rights Commission recently collated findings about the experiences of children involved in the criminal justice system:

- A survey of 14–17-year-olds in contact with the justice system between 2016 and 2018 in Queensland and Western Australia, found that about two thirds had at least one mental health disorder. As many as 23% had attempted suicide, nearly six times as high compared with their peers in the general population, and 14% reported that they had made a suicide attempt in the past 12 months.
- Drug and alcohol disorders are highly represented in the child justice population, with one report indicating that as many as 64% of those in child justice systems have a drug and alcohol disorder compared to 5.1% in the community.
- While the majority of children who experience maltreatment do not go on to offend, a large proportion of children who do offend have a history of child abuse and neglect, and this is particularly so for children in detention. Although no national figures on their experiences of family violence, the Queensland Youth Justice Census survey showed that 53% of the young people surveyed had experienced or been impacted by domestic and family violence.
- A study at Banksia Hill, Western Australia showed that 89% of young people in youth detention between May 2015 and December 2016 had at least one domain of severe neurodevelopmental impairment and 36% had Fetal Alcohol Spectrum Disorder (FASD).⁵⁹

As discussed at 2.5.1, there are also divergent views among staff about what Bimberi's overarching purpose is. While an expanded allied health team, discussed at 3.2.5, could further support Youth Detention Officers in the short term, the Review Team considers that longer term planning is needed to change Bimberi's model of care.

Data provided to the Review by CSD suggests that for the 2023 calendar year, Bimberi had a staff separation rate of 14% (10 permanent separations) and a recruitment rate of 3% (or two permanent engagements). This does not include casual appointments made and staff separations in this time.

In short, while the reasons for staff leaving are unclear, Bimberi's recruitment is not keeping pace with its separations. In comparison, the ACT Public Service average is a separate rate of 9%.⁶⁰ High separation rates result in higher costs, and lost efficiency, productivity and experience in working with young people.

As at 31 December 2023 Bimberi was also managing 16 workers compensation matters, with two separations and two invalidity retired.

The Review Team provided the opportunity for all Bimberi staff to participate in this Review via an anonymous online survey. However with a low response rate overall (approximately 18% of all Education, Health and CSD staff), the Review Team does not feel the response rate was statistically relevant. Only 13 out of the 31 responses were from staff who were Youth Detention Officers (42%).

There are other approaches to youth detention, which provide compelling examples of therapeutic approaches and reduced reoffending. As discussed at 2.1, centres run by Spanish organisation Diagrama are primarily staffed by therapeutic workers – with just a few staff focused on security. A change to the model of care for Bimberi would bring greater clarity to the role of 'youth worker'.

59 Australian Human Rights Commission, 'Help way earlier!'. *How Australia can Transform Child Justice to Improve Safety and Wellbeing* (Report, 2024) 18–19.

60 ACT Government, *State of the Service Report 2022–2023* (Report, 2023) 9.

Finding 25:

The term 'youth worker' misrepresents the role of Youth Detention Officers at Bimberi Youth Justice Centre.

Finding 26:

Bimberi's current staffing profile is adequate for its current model of care but would require change if Bimberi's model of care were more focussed on therapeutic support.

Training

A dedicated training officer 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. OICS also joins a regular panel discussion as part of this new recruits training with other oversight bodies to explain its role and how it relates to the work of other agencies.

Bimberi organises post-recruit training according to a regular training schedule as well as specific sessions tailored 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. The Review Team observed several training sessions (new recruit and skills maintenance) and found them to be well organised and professionally run.

Staff also complete e-learning using a platform that tracks their progress. As all Youth Detention Officers are scheduled for night shift, they are expected to complete their e-learning then if appropriate.

Several external service providers reported difficulties entering the Centre when new staff were rostered on and were not familiar with their role. This was usually resolved but delayed the time the service provider could deliver the service.

Staff support

The relevant OICS Review Standard is that staff are supported and have avenues to raise and address grievances that affect them in a timely and effective way.

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 reported that they do feel adequately 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, management remind staff to access the EAP if they need support.

Bimberi has recently engaged EAP services to attend the Centre on a regular basis and be available throughout a specific day for any staff (operational and non-operational) who wish to meet with them. This is an opportunity for staff to meet as a group or have one on one sessions. It provides continuity for staff in being able to discuss issues with the same person over a period of time.

Secure Workforce Policy

An emerging issue raised with the Review Team concerned the ACT Government’s Secure Workforce Conversion Policy. Bimberi needs a casual pool of workers to supplement its permanent workforce. This is critically important for a closed environment like Bimberi, where staff may be unexpectedly absent, as the experience with the COVID-19 pandemic particularly demonstrates. It is advantageous for Bimberi to be able to call on these staff at short notice and as needed. As noted by the ACTHRC previously, there are advantages to some over-recruitment for permanent staff, but it is not practicable, cost-effective or fair to rely entirely on the pool of permanent staff.

Such a pool will enhance the ability of management to deal with fluctuating numbers of young people and should further reduce the potential for future staff shortages. Nonetheless, the Commission considers it important that staff regularly drawn from the casual pool should not become default full-time youth workers, without the protection of permanent employment. As per the relevant ACT Government legislation and policies, full-time positions should be staffed on a permanent basis.⁶¹

As the Review Team understands, this has essentially continued to be the practice at Bimberi since 2011 (eg an over-recruited pool of permanent and temporary staff, supported by a casual pool). However, the relatively new Secure Workforce Policy may be having unintended consequences.

Appropriately, the Secure Workforce Policy states that the ACT Government is committed to providing secure, ongoing employment in the ACT Public Sector (ACTPS). As part of this commitment, the ACT Government has established a secure workforce conversion process (the conversion process) to provide an avenue for temporary and casual employees to convert to permanent employment. The conversion process is a joint endeavour of both ACT unions and the ACT Government.

However, the Review was told that the policy is leading to letters being auto-generated offering permanent positions to casuals who have been working at Bimberi for a certain period of time. It may be appropriate for some staff to be offered such conversion, but this should not occur through an auto-generated process. It risks significantly impacting Bimberi in multiple ways including draining its casual pool of workers and offer permanent jobs to workers which do not exist.

Finding 27:

The application and effect of the ACT Public Service Secure Workforce Conversion Policy to causal Bimberi Youth Detention Officers is unclear.

61 ACT Human Rights Commission, *The ACT Youth Justice System 2011* (Report, July 2011) 122.

2.5.5 Policies and procedures

The relevant OICS Review Standard is that current information about the operations of youth detention places is readily available to staff, detained children and young people, visitors and any other interested parties, as appropriate. This standard is informed by several sources, including ACT law.

For example, s 143 of the CYP Act provides that the director-general may make youth detention policies and operating procedures, consistent with the CYP Act, to facilitate the effective and efficient management of the Centre. The CYP Act requires that each such policy and operating procedure is a notifiable instrument (which means they are published electronically on the ACT Government's Legislation Register) and must be available for inspection by anyone at each detention place. Similarly, 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 and likely includes documents that inform the making of decisions at Bimberi. Freedom of expression under the HR Act also includes the right to receive information.

In Healthy Centre Review 2020, OICS noted that Bimberi partially met the review standard, as some policies and procedures had been notified and published under the CYP Act. However, the review found that, in addition to the policies and procedures, CYPS has an electronic 'Knowledge Portal' where Bimberi staff could access many documents relating to the functions of their role, including documents known as Practice Guidelines. The Review concluded that these documents provided a clear way for staff to access information on key aspects of their role. However, the Review Team noted that these Practice Guidelines were not publicly available on either the ACT Legislation Register or the ACT Government's FOI Open Access portal. The Review Team found that the transparency and public accountability of Bimberi's operations would be greatly improved by properly publishing these Practice Guidelines.

Nonetheless, returning for this review, the Review Team found that Practice Guidelines continue to be used while not being notified or published on the FOI open access scheme. Even more troubling, the Review Team found some Practice Guidelines were inconsistent with policies formally notified under the Act.

In particular, Bimberi management created practice guidelines in response to the COVID-19 pandemic, when Bimberi was classified under public health directions as a high risk environment. This included management making changes to visit practices to prevent physical contact between young people and visitors. The Review Team appreciates the urgency of the government's response to COVID-19 in the immediate period after the outbreak, but is of the view that sufficient time has passed to properly assess, and if necessary adjust, notified policies to reflect current risk.

Elsewhere, this report also documents inconsistencies between practice guidelines and notified policies and procedures in the area of classification (see [2.2.5](#)), use of time outs ([2.3.4](#)) and visits ([5.1.1](#)).

Finally, the HR Act also places two requirements on Bimberi staff that must be considered. Firstly, human rights may only be subject to reasonable limits *set by law*. Notified policies under the CYP Act are law. Practice Guidelines and other documents not notified under the CYP Act are not law.⁶²

62 Human Rights Act 2004 s 28.

Secondly, the HR Act requires that Bimberi staff give proper consideration to human rights when making decisions. It is the usual practice for policies and procedures notified under the CYP Act to document a consideration of relevant rights affected by the policy or procedure. This is not the case for Practice Guidelines, which further undermines the appropriateness of their use.

The Review Team was pleased to hear that a staff member is now working full-time on assessing all of Bimberi’s notified policies and practice guidelines to ensure notified policies are up to date with practice. However, the Review Team finds it is completely unacceptable that the law and policy framework for Bimberi has been left languishing for so long and expects that this project will be prioritised and sufficiently resourced by CSD so that substantial progress can be made by the end of 2024.

Finding 28:

The issues identified in previous OICS reviews concerning the use of unpublished ‘Practice Guidelines’ remain. Further, this Review found that some unpublished Practice Guidelines are inconsistent with policies notified under the CYP Act and do not properly consider human rights.



CHAPTER 3

Respect and dignity



3. Respect and dignity

3.1 Daily life

3.1.1 Living conditions

Condition of cells and units

While overall the living conditions for detained young people met OICS Review Standards, the Review Team identified several areas for improvement.

In both its Healthy Centre Review 2020 and the 2023 NPM Isolation Review, OICS found it was unacceptable that all detained young people did not have chairs in their cells, and during the onsite period this remained the case for all but one young person (who was trialling a new heavy-style chair). As at June 2024, Bimberi did not supply a chair to all detained young people in their cell. OICS considers that access to a chair should be a minimum standard as young people may wish to read or write, or complete artwork or activity packs in their cells.

Bimberi's infrastructure is aging and this is impacting on daily operations. The Review Team were onsite in winter and observed extremely low temperature inside certain buildings (client service meeting rooms, spiritual space), and young people told us they were cold in some accommodation blocks. The hard surfaces do not assist with a feeling of warmth. The kitchen areas in most units consist only of a metal bench and tap. Sufficient heating is therefore critical to ensuring Bimberi provides a humane environment.

Despite refresh of some units (painting, flooring) scratched windows were very evident, with some graffiti months or even years old (judging by the young people's names). Whilst scratching into windows may be time consuming to remove, graffiti on other surfaces could and should be addressed in a more timely way. At part 2.2.3 of this report, the impact of offensive graffiti in the induction unit is discussed in further detail, although graffiti is present across the centre.

Bimberi staff acknowledged that due to the Centre's age, there are a range of maintenance issues, including heating. The Centre has a maintenance team that reports to the Business Manager. The Review Team observed that the Centre had in place an effective system for identifying and recording maintenance jobs. However, despite the maintenance team working hard to address these, it was apparent to the Review Team that the Centre is reaching an age where greater investment from Government is needed to maintain a reasonable level of amenity. In 2022, CSD engaged a consultant to produce a 'Building Condition and End-of-Life' report. It noted that Bimberi was in an excellent condition for its age, and that 'the high level of maintenance is apparent in the condition of the buildings'. However, the report also noted that 'some areas of the facility are currently either being upgraded or earmarked for upgrade in the future and they are not included in this report'. These included the heating ventilation and air conditioning for the whole centre and split air conditioning systems. Further, that report noted that several ducted split air conditioning units were at that time 'in poor working order'. Some of these were in the Namadji and Majura residential units, as well as Building 1 (administrative building), predominantly in staff areas.

The Review Team understands that no major upgrades have been made to the air conditioning since this report.

Young people told the Review Team that they, apart from the Bendora 1 Unit, are dissatisfied with the amenity of other accommodation units, including the lack of proper kitchen facilities. The Bendora 1 unit accommodates those young people on the lowest security classification and the highest privilege levels. This unit provides an area more akin to a household kitchen with cooking facilities, that is utilised by young people on the unit for self-catering on certain nights of the week. Young people detained in this unit continue to value living in this unit (as discussed in previous reviews). However, when inspected by the Review Team, we found the pantry and fridge were bare.

Finding 29:

As at June 2024, chairs were still not a minimum standard item for all young people in their cells as recommendation in the 2023 NPM Isolation Review.

Finding 30:

Further additional investment from ACT Government, above usual budget allocation, is necessary for the living conditions of detained young people to meet contemporary community standards, including in relation to the Centre’s air conditioning.

Clothing, bedding and personal care items

On induction to Bimberi, staff provide detained young people with a personal kit including clothing, shoes, thongs, toiletries and bedding. As part of the incentives system, detained young people can also purchase a range of additional clothing items. The Review Team found clothing and bedding to be clean.

Bimberi staff also provide young people a toiletries pack on induction, which include essentials such as a toothbrush, toothpaste, soap, shampoo, conditioner, deodorant and menstruation products. As part of the incentive system, detained young people can purchase different brands of toiletries.

Further exacerbating the Review Team’s concerns about heating at the Centre is that young people complained about clothing and bedding during winter. Young people told the review they had to request an extra blanket/doona from staff. The Review Team was told that on some occasions, staff will only provide these extras after completing a risk assessment process, which can take a number of days. It is unclear why a risk assessment would be required in these circumstances, but if necessary, this should be done quickly for an immediate need such as keeping warm.

Similarly, several young people informed the Review Team that they are not provided enough warm clothing. The Review Team is concerned that the standard issued clothing, being tracksuit jumper and pants, are not sufficient. We were informed that polar fleece was on order but had not been provided by the time the onsite component of the review was complete.

Finding 31:

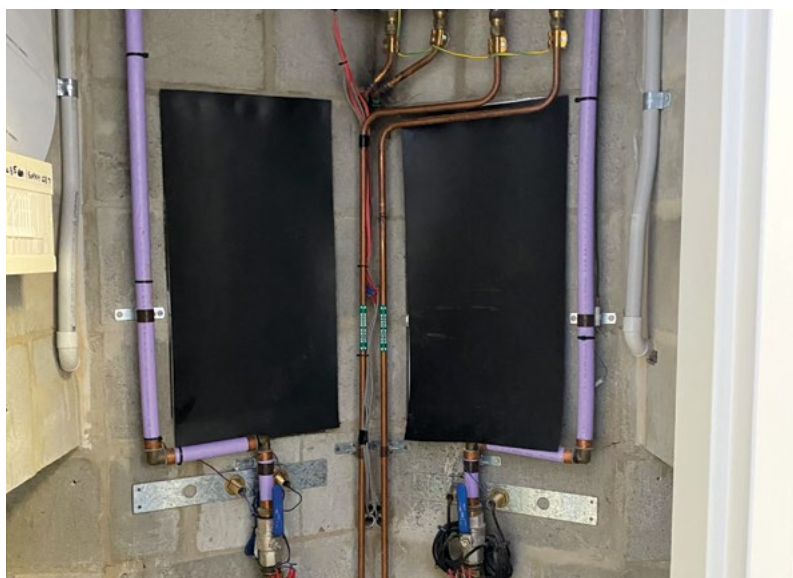
Young people at Bimberi feel they are not provided sufficient warm clothing during winter.

Young people concerned about being observed

There is one cell in each unit that has a CCTV camera. These cells are used for young people who are deemed at-risk. In one of the units we observed, due to accommodation constraints, young people were accommodated in a cell with a camera, despite not being assessed as at risk. These young people reported to the Review Team that they felt uncomfortable about this situation, and requested to be moved to a cell without a camera as soon as possible.

Another privacy issue raised by young people concerned the inclusion of observation windows in cell bathrooms concealed behind a locked door, which can be accessed by staff outside the cell to observe a young person. The Review Team understands that Bimberi's policy is that staff do not use these observation windows when young people are showering, rather Youth Detention Officers check on the welfare of young people by speaking to them through the door. The Review Team observed this approach when staff called out to a young person in the shower after an admission into the Centre after hours. These viewing windows are now covered by black curtains.

Photo 9: Shower observation windows (with black curtains hanging) behind a staff-only access door, in accommodation units



Source: OICS (2024)

However, young people reported that occasionally the external window was used while they were showering, making them feel uncomfortable. Appropriately, the individual circumstances of these allegations are being considered by other oversight agencies, and OICS was unable to confirm whether this occurred and the context in which it may have taken place. However, the Review Team considers that as the viewing windows are not used according to routine procedure, they could be removed to make young people more comfortable and protect their privacy.

Finding 32:

Bimberi's physical infrastructure constitutes a serious risk to young people's actual privacy and perceived sense of privacy as it is possible for staff to view bathroom areas of the cells via windows.

Photo 10: Kitchen area in an accommodation unit

Source: OICS (2024)

Cleanliness and maintenance

Detained young people are encouraged, enabled and expected to keep themselves and their cells and communal areas clean. Detained young people have cleaning chores at various times, and members of the Review Team observed some young people cleaning their units and cells in the evenings. It is also possible for young people to earn Bimcoins for doing extra chores, and young people told the Review Team they sometimes did additional cleaning for this reason.

Photo 11: Accommodation clothes line

Source: OICS (2024)

Photo 12: Accommodation unit laundry facilities



Source: OICS (2024)

Personal property

Property is collected from a detained young person at induction in the Coree Unit. Clothing is laundered before being stored and young people can keep clothes to wear to court in their property stores. The Review Team observed the storage area for personal property, which is held securely.

Finding 33:

There are adequate systems in place at Bimberi to securely store and record personal property.

3.1.2 Food and drink

Bimberi chefs prepare fresh food onsite at Bimberi, which is usually delivered to units. Staff serve detained young people three meals a day, two of which are hot, as well as morning and afternoon teas. Young people can also at times access 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 suit religious needs.

Bimberi commissions a dietician from Nutrition Australia to conduct a desk top review of its menu annually.

As was also the case during Healthy Centre Review 2020, young people reported mixed opinions about the food. The Review Team ate lunch with some detained young people while onsite. Young people continued to express concerns about the quantity of food and the time between the evening meal and breakfast. Young people also reported frustration that their feedback about the food does not result in meaningful changes to the menu. Most young people do not have access to their purchased food items throughout the day.

Some detained young people also told the Review that they would like to be able to cook for themselves in their unit. Murrumbidgee School provides cooking classes, but young people are generally not able to cook in their units. Self-catering is somewhat available in Bendora 1, the accommodation unit for young people on the highest privilege levels. This is discussed further at 5.3.3.

Bimberi staff told the Review Team that they agreed some of the young people do not like the current menu, and are taking steps to address this, while still ensuring the menu meets nutritional guidelines. Bimberi also sought feedback from young people about menu ideas some weeks prior to the Review Team being onsite, but the young people advised they had not had any feedback or seen changes to date. Bimberi also confirmed that the kitchen is now providing larger portion sizes and that if the young people come to the dining room to eat, they can seek further helpings of food.

However, once common practice, it is now unusual for young people to mix together in the dining room during meal times. Therefore, the option to seek larger meal portions is generally not available to young people.

Also of concern, staff recently served a detained Aboriginal young person with their father's totem animal, kangaroo. The Review Team raised this with Bimberi, who explained that this was a miscommunication as kangaroo was intended as an optional addition to the main meal, but was the only meat served and staff accepted that this should not have happened. More consultation with detained young people and/or cultural awareness could have prevented this occurring.

Food in units

Some detained young people told the Review that they would like to be able to take the food they have purchased through the incentives scheme into their cells overnight. Staff serve dinner at approximately 5:30pm and then any food young people have purchased can only be eaten from 6–7pm. They then have no food until staff unlock their cell doors the next morning.

As observed in the 2023 NPM Isolation Review, detained young people reported feeling hungry during the period they are locked in their cells, particularly on the two days per week where unlock was after 9:30am due to staff training. OICS recommended that CSD ensure young people have access to sufficient food or drink to avoid hunger when locked in their cells. The Review Team understands that breakfast packs are now prepared and given to young people on those days when staff unlock rooms later. Nonetheless, young people continued to request access to larger meal portions and more food options in their rooms.

Finding 34:
Young people would still like larger food portions, and the move from young people eating in the dining room means the option to access larger portions is not available to them.

Finding 35:
Young people would like access to purchased food in their cells.

3.1.3 Consultation with detained young people

Interviews with detained young people: comments made about Youth Detention Officers

"Some of the youth workers are good, they are just nice, normal people who treat you with respect."

"Lots of staff leave. Some staff start good, they either fit in with how things are done at Bimberi or they leave."

In OICS Healthy Centre Review 2020 we heard from young people that the existing consultation mechanisms in place at Bimberi did not meet their needs and that they felt their voices were not heard. That review recommended that Bimberi develop a formal consultative mechanism with detained young people that enables their views and concerns to be heard and for feedback to be provided to them. The government agreed to this recommendation with a commitment to consult with young people about the effectiveness of existing consultation processes.

This work resulted in Bimberi introducing a 'Manager's Café' in 2023. The Manager's Café is intended to occur weekly, when the young people make coffee in the dining area, to provide young people an opportunity to share any opinions, ideas and feedback on the running of Bimberi with members of the management team. The intent is that management report back to young people on the outcome of the Manager's Café in the form of a newsletter, which sets out what management heard from young people, what has been done as a result, what Bimberi is working on and what requests cannot be actioned and why.

CSD advised that there are also several other pathways for detained young people to raise concerns and provide feedback, including weekly reflection meetings, and weekly unit meetings with the Unit Manager or Team Leader. Young people can also meet with the Support and Services Team to discuss case management, reasonable adjustment assessments and supports, programs and services at Bimberi, cultural and family connections, and other matters.

Feedback from young people on consultation mechanisms at Bimberi was not positive. Some young people felt there was no point raising concerns or ideas as it did not result in changes being made. Some were not aware of the Manager's Café, while others commented that they do not attend as they feel they are not heard.

"...nothing ever changes if you raise it with management and there is no feedback, so you never know what's going on with stuff you have raised."

The first edition of the Manager's Café newsletter provided detailed information including explanations about the decisions made for each of the action items, and a commitment to provide the newsletter monthly. It appears there have been four newsletters since March 2023. The level of detail on the feedback provided to young people has waned considerably over time.

Further it is clear from review of the Manager's Café newsletters that certain issues repeatedly raised by young people have not been addressed, such as physical contact with family and friends during visits, more mixing between groups of young people, access to cultural programs and access to purchases in their cells.

While OICS appreciate that these things can be subjective and what is important to one young person may not be to another, there was a consensus amongst young people that even when asked to provide feedback and suggestions on matters regarding their experiences at Bimberi they felt their views were ultimately not considered.

Finding 36:

While steps have been taken by Bimberi management to consult with detained young people since 2020, young people remain generally dissatisfied about consultation mechanisms at Bimberi.

3.1.4 Complaint handling

Internal complaints

The OICS Review Standards require Bimberi to have an effective and confidential complaints mechanism for detained young people and their families, carers and kin. This complaints mechanism should be user-friendly for people with low levels of literacy or disabilities that may impact their ability to make a complaint.

To make a formal internal complaint about their treatment at Bimberi, a young person must fill out a complaint form. The *Children and Young People (Complaints Management) Policy and Procedures 2018 (No 1)* requires that staff assist young people to do so. Once completed, staff provide the complaint form to the Unit Manager on the same day to undertake initial investigation. The Unit Manager is 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.

Healthy Centre Review 2020 noted concerns about the lack of anonymity and confidentiality of the internal complaints process and the conflict of interest in Bimberi staff assisting young people to complete complaint forms. This process may act as a deterrent for young people to make a complaint and create risks of reprisals.

A number of young people who spoke to the Review Team said that they would not make an internal complaint at Bimberi, either due to past experience, where they felt there was no satisfactory outcome, or because they were concerned about potential reprisals. The Review Team did observe some staff members quickly resolving minor concerns raised by young people.

Complaints to external agencies

Many of the young people who spoke to the Review Team identified that they could make a complaint to the Official Visitors (OVs) or the ACT Human Rights Commission (ACTHRC). In addition, there is the newly created role of Aboriginal and Torres Strait Islander Children and Young People's Commissioner. Young people are able to call the OVs and ACTHRC free of charge and the calls are not recorded or actively monitored. They are also able to speak to these agencies when they visit Bimberi regularly.

The OVs, PA and Aboriginal and Torres Strait Islander Children and Young People's Commissioner have a regular and active presence at Bimberi and are an effective mechanism for independent complaint handling. However, some of the young people who spoke to the Review Team said that they would not make a complaint to the external oversight agencies due to the risk of reprisals and that they felt things often did not improve following making a complaint:

"We don't bother calling the Public Advocate or Human Rights or make internal complaints, it just makes matters worse. Staff talk to everyone and they all find out what you said."

Finding 37:

Bimberi's internal complaints process lacks protections for reprisals and confidentiality. This is partially offset by the regular presence of Official Visitors, Public Advocate and Aboriginal and Torres Strait Islander Children and Young People Commissioner.

3.2 Equity, diversity and faith

3.2.1 Detained young people on remand

The OICS Review Standards require that the unconvicted or unsentenced status of remanded young detainees is respected in the way they are treated at Bimberi. In addition, remanded young people must have no less access to services, activities and amenities than sentenced young people, and be able to access additional services 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.'⁶³ Similarly, the CYP Act states that the treatment of a remanded young person must respect that they are presumed innocent of any offence for which they are detained.

The *Children and Young People (Treatment of Convicted and Non-Convicted Young People) Policy and Procedures 2018 (No 1)* requires that non-convicted detained young people be separated from convicted detained young people. However, this requirement does not have to be complied with if it is in the best interests of all affected detained young people. During the period of 1 January to 1 July 2024, 87 unique young people were detained at Bimberi. Only nine were sentenced during this time (10%) (some of these young people may have changed their legal status while detained during the review period). One young person was sentenced and released shortly after the review period ended after spending 7 months on remand.

The overwhelming majority of detained young people at Bimberi on any one day will be held on remand. Therefore, it is often undesirable to separate convicted and non-convicted detained young people because it would result in the convicted detained young people being physically isolated from other detained young people. The effect of remand and pending criminal charges on a detained young person's classification is discussed at [2.2.5](#).

63 Human Rights Act 2004 s 20(2).

During the review period, the median period of detention (and remand specifically) was 1 day. The average time on remand was approximately 29 days. The average time of all detention was approximately 33 days.⁶⁴ Sixty-three per cent of young people admitted spent 2 or less days in custody at Bimberi (n=94).⁶⁵ This data indicates that there is a clear trend of young people being arrested, refused police bail, and then bailed from the Children's Court shortly thereafter. More than half of the readmissions to Bimberi during the review period were due to an alleged breach of bail (34 out of a total of 63 readmissions).⁶⁶ In a submission to the ACT Legislative Assembly, the ACT Government noted that from 1 July 2023 to 30 April 2024, ACT Policing reported 171 apprehensions of people aged under 18 on a 'breach of bail charge'.⁶⁷

Anecdotally, the Review Team heard that common reasons for young people breaching their bail conditions did not involve threats of safety to alleged victims or interference with witnesses, but rather involved them not residing at their nominated address or not meeting curfew conditions.

In 2022–23, the total number of young people in detention in the ACT on an average day was 18.7, with 13.8 of those on remand (74%).⁶⁸

The high numbers of young people on remand present several challenges for Bimberi. Firstly, it makes discharge planning more complicated, as a young person on remand may be released on bail at any time after a court hearing. Further, as reflected in the experiences of the young people during the period of this review, long periods of remand can result in young people spending very little time as a 'sentenced' young person, potentially undermining rehabilitation planning.

It is outside the scope of this Review to identify with certainty why young people are spending prolonged periods of remand at Bimberi. However, in speaking to several stakeholders in the course of this review, the Review Team notes the following.⁶⁹

Lack of police discretion

The relative high proportion of young people being detained for breach of bail may be due to police having no discretion to grant bail once a young person is arrested for breach of bail.⁷⁰ This lack of discretion mandates that the young person is detained until they can be brought before the Children's Court for a reconsideration of bail. Providing police discretion to re-grant bail in these circumstances could reduce the short periods of remand for these young people.

Nonetheless, this change alone will not necessarily make a significant difference. The Jumbunna Centre's *Independent Review into the Overrepresentation of First Nations People in the ACT Criminal Justice System* found only 10% of Aboriginal and Torres Strait Islander young people were diverted by police compared to 30% for non-Indigenous young people.⁷¹ ACT Police provided the Jumbunna Centre with data indicating an 'infrequent use of diversionary options' for all young people with most instead going through the court process.

64 For those still in custody on 1 July 2024, this was taken as their final day in custody for the purposes of these calculations.

65 As percentage of total admissions so may include the same young person being admitted and released multiple times.

66 This is based on number of admissions, so may include the same young person returning to Bimberi multiple times during the review period for breach of bail.

67 Noting that breach of bail is not an offence. See ACT Government, Submission No 12 to Stand Committee on Justice and Community Safety, ACT Legislative Assembly, *Inquiry into the Administration of Bail* (12 June 2024).

68 Australian Institute of Health and Welfare, *Youth Justice in Australia 2022–23* (2024) Table S108.

69 OICS also recently made a submission to the current Inquiry into the Administration of Bail in the ACT by the Legislative Assembly Standing Committee on Justice and Community Safety. As part of the ACT National Preventive Mechanism (NPM) our functions include contributing to law and policy discussion relating to prevention of ill-treatment in detention.

70 See *Bail Act 1992* ss 56A and 56AD.

71 Professor Chris Cunneen et al 'ACT Government responses to the Australian Law Reform Commission's Pathways to Justice Report recommendations', *Independent Review into the Overrepresentation of First Nations People in the ACT Criminal Justice System* (First Report, August 2024), 24.

For example, only 2.2% of Aboriginal and Torres Strait Islander young people were issued a caution compared to 13.5% of non-Indigenous young people. They were also less likely than non-Indigenous young people to receive any of the other diversionary options available.⁷²

Presumptions against bail

Stakeholders also raised the administration of bail as a potential driver of remand rates, particularly the current presumptions against bail for certain matters under the *Bail Act 1992*.⁷³ The Review Team notes that under international law and relevant standards, the detention of young people must be a last resort. The imprisonment of young people early in their lives is likely to lead to further incarceration. The Australian Institute of Health and Welfare notes that the younger a person was at their first supervised sentence, community based or detention, the more likely they were to return to sentenced youth justice supervision.⁷⁴ A presumption against bail is also contrary to the National Agreement on Closing the Gap, of which the ACT Government is a signatory, and commits Australian Governments to reducing the rate of incarceration Aboriginal and Torres Strait Islander children.⁷⁵

Presumptions against bail also risk a person needlessly being exposed to the initial period of incarceration, which is the period of highest risk of ill treatment,⁷⁶ self-harm,⁷⁷ and causing or exacerbating trauma.

Bail support

Previous ACT reviews and reports have identified the need for greater bail support for adults and young people. The Final Report on the now expired Blueprint for Youth Justice, noted that the After Hours Crisis Service, which 'offers alternative community-based options to youth custody', was 'effective in reducing the number of young people held on remand'.⁷⁸ However, the Review Team understands that presently there is no dedicated bail support program available for young people.

The *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse* (Tasmanian Royal Commission) recommended that the Tasmanian Government, take measures to reduce the number of young people on remand by:

72 Ibid. ACT Policing told the Jumbunna review that there are numerous possibilities as to why ACT Policing is submitting less referrals to Restorative Justice (RJ):

- Victims or offenders do not want to participate, or offenders deny involvement in the offence
- Many offences are not eligible for RJ, due to the legislated eligibility criteria
- Cautions are issued instead of RJ referral due to the length of the RJ process.

The Police response states further that the long wait times (16 weeks) for a referral to be allocated to a convenor may negatively impact on the willingness of either the victim or offender to participate. It is also noted that First Nations people suspected of an offence and/or arrested and charged may not identify to the police officer in the initial process so are not recorded as Indigenous.

73 See *Bail Act 1992* Part 2 div 2.4.

74 Australian Institute of Health and Welfare, *Children under youth justice supervision* (25 February 2022) <<https://www.aihw.gov.au/reports/children-youth/australias-children/contents/justice-safety/children-youth-justice-supervision>>

75 Target 11: By 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10–17 years) in detention by at least 30 per cent.

76 See eg, Office of the High Commissioner for Human Rights, *Preventing Torture: An Operational Guide for National Human Rights Institutions* (2010) 4.

77 A recent review by the New Zealand Inspectorate of Corrections of suicide and self harm in prisons in New Zealand noted: 'The risk of suicide and self-harm is heightened during the early days and weeks a person is in prison. Contributing factors described in the literature include a restrictive regime, disconnection from families and society, exposure to violence in prison and overcrowding. These factors may be especially relevant for remand prisoners who are awaiting conviction or sentencing and who are therefore also dealing with uncertainty over what will happen to them. New Zealand Office of the Inspectorate, *Suspected Suicide and Self-harm Threat to Life Incidents in New Zealand Prisons 2016-2021*, (Thematic Report, 2024) 59. P Armytage and J Ogloff, *Youth justice review and strategy: Meeting needs and reducing offending* (Report, 2017) <<https://www.justice.vic.gov.au/justice-system/youth-justice/youth-justice-review-and-strategy-meeting-needs-and-reducing-offending>> Executive Summary, 7.

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

- Introducing legislation to prohibit the refusal of bail to a child on the sole ground that the child does not have any, or any adequate, accommodation.
- Establishing and fully resourcing a statewide 24-hour bail system for children and young people with:
 - i. specialised and trained decision makers who have knowledge of children and young people, Aboriginal children and young people, and the impact of trauma
 - ii. access to corresponding bail support services
 - iii. access to legal representation for children and young people.⁷⁹

In the ACT, the Aboriginal Legal Service (ALS) provides the Ngurrumbai Bail Support wraparound program for adults. The Review Team understands that the ALS is endeavouring to extend the program to young people within existing resources, but we consider that the ACT Government should provide the ALS specific and sufficient funding for this purpose. As this program is funded by the Justice and Community Safety Directorate (JACS), it may be an example of opportunities for greater inter-Directorate or cross-government collaboration, to ensure young people in the justice system can access initiatives (discussed further at 5.4). The Jumbunna Institute for Indigenous Education and Research has noted in relation to the ACT that 'more Aboriginal and Torres Strait Islander specific community-based and led programs through which young people in particular could be supervised are needed'.⁸⁰

Sunday bail court

Stakeholders also spoke positively about the pilot program for Sunday bail hearings and how it resulted in many young people being released on bail who otherwise would have been detained until Monday morning. The trial has now ended and the ACT Government has not provided funding for it to continue.

Programs outside Bimberi

In evidence to the Parliamentary Inquiry into the Administration of Bail, the ACT Deputy Chief Police Officer suggested that breaches of bail were occurring because the 'service system isn't there'. In that context, it is noteworthy that in its submission to the Inquiry, the ACT Government highlighted several programs and services relating to supporting people in the justice system. Many of these were available only to adults.⁸¹

The Review Team notes that the ACT Government recently established a Therapeutic Support Panel to promote the wellbeing of at-risk children and young people, their families and the broader community, as part of increasing the minimum age of criminal responsibility. This expertise provides an opportunity to highlight existing support services for young people in the community as well as identify gaps in support that can be addressed to prevent young people from being detained and find alternatives to detention.

⁷⁹ *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse* (Report, August 2023) Recommendation 12.14.

⁸⁰ Professor Chris Cunneen et al 'ACT Government responses to the Australian Law Reform Commission's Pathways to Justice Report recommendations', *Independent Review into the Overrepresentation of First Nations People in the ACT Criminal Justice System* (First Report, August 2024), vii.

⁸¹ ACT Government, Submission No 12 to Legislative Assembly Standing Committee on Justice and Community Safety, ACT Legislative Assembly, *Inquiry into the Administration of Bail* (12 June 2024).

Programs within Bimberi

As discussed at 5.4, the Review Team has found that a more comprehensive and strategic approach to the delivery of programs at Bimberi is needed. Such an approach would assist young people return to the community successfully, thereby improving community safety.

Finding 38:

More investment in the broader youth legal system is needed to reduce the numbers of young people on remand. It is likely more bail support programs for young people and the permanent introduction of Sunday bail court would assist, as well as changes to bail laws.

Access to leave

Healthy Centre Review 2020 discussed confusion about access to leave permits for young people on remand. That report noted that leave is an important way that detained young people can be supported to maintain or reestablish family and community ties and access education, employment, housing and other social integration needs to prepare for release. Even if a young person is ultimately found guilty, some detained young people are released at sentencing because they are either not sentenced to a term of imprisonment or have already been in Bimberi for the length of their sentence (in other words, they get 'time served'). Leave is then very important to assist with their transition back to the community before their release.

The *Children and Young People (Local and Interstate Leave) Policy and Procedures 2018 (No 1)* states that the detained young person's legal status is a matter that the Manager may consider when making a decision to issue a leave permit. It does not preclude detained young people on remand from making an application for, or being granted, a leave permit. Nonetheless, Healthy Centre Review 2020 found that the Practice Guideline 'Assessing and granting leave' and the Bimberi Handbook need to clarify that detained young people on remand can access leave. Positively, the Bimberi Handbook and the Practice Guideline have been amended. Nonetheless, the description of leave in the Handbook continues to imply that leave is more likely to be granted for sentenced young people.

Further, OICS's analysis of leave permits suggests that, over the previous year, leave was predominantly granted for the purpose of health appointments. Only 3 applications were made for any other forms of leave, all for one sentenced young person, for the purposes of recreation and training/employment. All leave applications were granted.

The Review Team heard that young people on remand are confused as to how and when they will be granted leave. Conversations with several staff also suggested that across the Centre there was a general presumption that only sentenced detained people would be granted leave for non-health purposes.

The Review Team was also told about a growing trend of young people, who are seeking leave from Bimberi for compassionate reasons such as a funeral, opting out of the Bimberi leave application process, and instead choosing to apply for short-term bail from the Childrens Court (eg for a day). There are several drawbacks to this approach. Firstly, it unnecessarily draws on the Childrens Courts limited resources and capacity. Secondly, the Review Team understands that a young person must usually report back to the court on return from leave, rather than simply returning to Bimberi.

Barriers to all young people attending education, training and compassionate leave is of concern to the Review Team, but particularly for Aboriginal and Torres Strait Islander young people. These young people are entitled to specific cultural rights under the HR Act, including to attend important Sorry Business.

Research undertaken by Kate Bjur, a Churchill Fellow with senior leadership experience in youth detention (Queensland) found that in overseas jurisdictions it is common and beneficial for young people to leave places of detention:

Young people in Scotland spend the last third of their sentence leaving the centre each day for work, education, home visits and other reintegration activities. In Denmark, the majority of young people spend the second half of their sentence going off centre, even in the highest security environments. In Spain, approximately 30 to 50 percent of young people go off centre daily, and in the lower-risk open centres, every young person is in the community every day, with or without a staff member. In one centre in the Murcia region, 4000 instances of young people leaving the centre occurred in 2022. From those, four young people came back to the centre after curfew and none re-offended while on leave.⁸²

Bjur recognises that in the Australian context, there is inherent risk involved in giving young people the space to fail, including due to community perceptions about the purpose of youth detention. She notes that in other jurisdictions, this is addressed by sharing risk among several stakeholders. This is discussed further in relation to throughcare at [5.3.5](#).

In some ways, young people electing to apply to the Childrens Court for day bail is shifting the risk from Bimberi to the Courts. It may not be the most efficient or effective arrangement to achieve the outcome of young people accessing leave.

Finding 39:

Detained young people on remand are not accessing day leave from Bimberi, despite evidence that such leave provides opportunities for greater therapeutic and other support.

Finding 40:

Detained young people may receive greater and more appropriate access to therapeutic and rehabilitative opportunities outside Bimberi if decision making for day leave was shared between Bimberi and other stakeholders.

3.2.2 Female young people

The Review Team found that the distinct needs of female young people in Bimberi are recognised and that the OICS standard that they have equitable access to services, activities and amenities was substantially met.

82 Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022) 28.

During the period of this Review, there was an unusually high number of female young people detained at Bimberi. According to previously published data, in 2022–23, a quarter of detained young people in Bimberi throughout the year identified as female.⁸³ Similarly, information from CYRIS assessed by OICS during this Review indicated that 28% of total admissions to Bimberi identified as female.⁸⁴

Typically, it is common to only have one or two female young people in Bimberi at the same time. This creates challenges regarding the accommodation placement of female young people in Bimberi, especially where some of them cannot be accommodated together due to non-association requirements for example personal conflict. The CYP Act requires male young people to be segregated from female detained people except where it is in the best interests of all affected detained young people. Particularly when there are low numbers of female young people detained at the Centre, there can be prolonged periods when female young people only interact with Bimberi staff and not other young people.

However, during periods of the Review, there were as many as six female young people detained at Bimberi at the same time, representing as much as a third of total admissions.

In contrast to issues raised in OICS Healthy Centre Review 2020, the Review Team did not hear directly concerns from female young people about receiving inequitable access to programs and activities.

Bimberi is partnering with Sexual Health and Family Planning ACT (SHFPACT) to develop a Bimberi So Safe program through the Safer Girls Safer Women program. The project aims to develop resources for staff to use with young people to target sexual safety and safe relationships. During the review period, Pelvic Pain Foundation also visited Bimberi to discuss period and pelvic pain with female young people. The Review Team noted there did not appear to be any cultural programs specific to Aboriginal and Torres Strait Islander female young people.

Further, it was suggested to the Review that it is not culturally appropriate for Aboriginal and Torres Strait Islander female young people to be detained at a facility that predominantly detains male young people, particularly when the same accommodation units will be used at various times to house different genders. This perhaps raises a question outside the parameters of this Review, concerning whether female young people should be detained at Bimberi at all.

83 Bimberi Headline Indicators Report (May 2024) 6.

84 1 January 2024 to 30 June 2024.

Table 3: Detained young people in the ACT, 2014/15 – 2022–23

Year	Average daily number males	Average daily number females	Total average daily number*
2014–15	6	1	7
2015–16	5	1	6
2016–17	7	2	9
2017–18	10	2	12
2018–19	6	2	8
2019–20	11	4	15
2020–21	7	2	9
2021–22	9	2	11
2022–23	12	3	15

* Average daily number of males and females may not sum due to rounding. Total includes sex unknown.

Data source: Report on Government Services (2024), Youth justice services, Table 17A.3.

3.2.3 Aboriginal and Torres Strait Islander detained young people

Table 4: Aboriginal and Torres Strait Islander young detainees at Bimberi

Reporting period		Total number of Aboriginal and Torres Strait Islander young detainees		Total number of young detainees
		Number	%	
2020–21	Q1	11	41%	27
	Q2	12	46%	26
	Q3	3	15%	20
	Q4	9	38%	24
2021–22	Q1	7	32%	22
	Q2	7	39%	18
	Q3	7	22%	32
	Q4	7	20%	35
2022–23	Q1	12	32%	38
	Q2	18	45%	40
	Q3	10	29%	35
	Q4	9	21%	42
2023–24	Q1	12	38%	32
	Q2	19	46%	41
Average		10	36%	

Source: Bimberi Headline Indicators May 2024.

Over-representation

The over-representation of Aboriginal and Torres Strait Islander people is a significant issue across the youth justice system, reflected in Bimberi's population.⁸⁵ From 2018–19 to 2023–24, detained Aboriginal and Torres Strait Islander young people made up approximately one quarter to one third of the population of Bimberi on an average day.⁸⁶ This trend is continuing, as during the period of this Review, OICS found 33% of total admissions to Bimberi identified as Aboriginal and Torres Strait Islander.⁸⁷ In contrast, according to the latest data, Aboriginal and Torres Strait Islander peoples only represent 2.1% of the total ACT population,⁸⁸ and 3% of those aged 10–17.⁸⁹

It is an historic trend, both in the ACT, and nationally, that Aboriginal and Torres Strait Islander young people are over-represented in the out-of-home care system. During the review period, approximately half of the admissions to Bimberi who identified as Aboriginal and Torres Strait Islander people were also subject to care and protection orders. Target 12 of the National Agreement on Closing the Gap is that by 2031, all Australian Governments will reduce the rate of overrepresentation of Aboriginal and Torres Strait Islander children (0–17 years old) in out-of-home care by 45%.

The recently commissioned independent review of the *Over-representation of First Nations people in the justice system* by the Jumbunna Institute for Indigenous Education and Research, may shed further light on the drivers of this over-representation.⁹⁰ This review follows from the 2017 *Our Booris Our Way* report, which made 28 recommendations to the ACT Government aimed at improving outcomes for Aboriginal and Torres Strait Islander children and young people engaged in the children protection system.

Nonetheless, this does not mean there is not a role for Bimberi (and the broader Community Services Directorate) to support these young people further, particularly when, for many, the Director-General is also their statutory parent.

At 5.3 of this report, OICS identifies further improvements that could be made to throughcare, programs and transitional support to maximise the opportunities for these young people, particularly Aboriginal and Torres Strait Islander young people, to never return to detention again.

CSD regularly publishes data about Bimberi in Headline Indicator reports. In comparing reports produced over time, OICS identified that the number of young people listed as identifying as Aboriginal and Torres Strait Islander changed for the same period in multiple reports. For example, for the first quarter of 2018–19 financial year, the number of Aboriginal and Torres Strait Islander young people reported differs across several reports. In the October 2021 Headline Indicator report it was listed as 4. In the November 2022 report it changed to 8 and then in May 2023 report it was listed as 7 (the most recent data listed in this table). OICS asked CSD why the numbers of Aboriginal and Torres Strait Islander detained young people would be retrospectively changed. The following explanation was given:

85 ACT Government agencies responsibilities for the youth justice system are discussed at section 1.6 of this report.

86 Australian Institute of Health and Welfare, *Fact sheet: Youth justice in the Australian Capital Territory 2022–23* (8 March 2024) Table 138C.

87 This is of total admissions, and so may include the same young person entering (and leaving) on multiple occasions during this period.

88 Bimberi Headline Indicators Report (May 2024); Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians* (31 August 2023) <<https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/estimates-aboriginal-and-torres-strait-islander-australians/latest-release>>

89 Australian Institute of Health and Welfare, *Fact sheet: Youth justice in the Australian Capital Territory 2022–23* (8 March 2024).

90 The first report of this review was published on 14 August 2024: Professor Chris Cunneen et al 'ACT Government responses to the Australian Law Reform Commission's Pathways to Justice Report recommendations', *Independent Review into the Overrepresentation of First Nations People in the ACT Criminal Justice System* (First Report, August 2024).

The reason for the change is that the data use for generating the numbers in the report is live and is being updated constantly, the changes in the demographic data are due to updates in the data in the backend in CYRIS and future reports always reflect the most recent and updated data in the system.

If a team member updates a data that is already in the past, it will be reflected in the next report and hence causing a discrepancy between reports issued on different dates.

The logic of retrospectively updating demographic data on Indigeneity is unclear to the Review Team.

Facilities

Photo 13: Inside Bimberi spiritual centre



Source: OICS (2024)

In Healthy Centre Review 2020, OICS noted that Bimberi has a Spiritual Centre and an outdoor fire pit that can be used as spaces to deliver programs and services, that was underutilised. Unfortunately, as at June 2024, this was still the case. The Review Team understands that the Spiritual Centre is rarely used for cultural purposes, and during the review period the fire pit was not used at all. It was overgrown with weeds, fallen branches and cobwebs. During the review period, the Review Team's impression was that Aboriginal and Torres Strait Islander detained young people felt no particular connection or ownership to the Spiritual Centre or Yarning Circle.

Adding to these issues was that, during the Review Team's visits, the heating failed to work in the Spiritual Centre, making it virtually unusable during Canberra's cold winter.

These spaces could be used by detained young people to connect to community and culture, including via Yarning Circles. They could also be used as a space for Aboriginal and Torres Strait Islander young people to meet with key stakeholders and talk through some of the challenges they are experiencing.

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.

Finding 41:

As was the case in 2020, the Spiritual Centre and fire pit were not used during this review period (to June 2024) as a place to connect Aboriginal and Torres Strait Islander young people with their community and culture. The recommendation made in Healthy Centre Review 2020 therefore remains relevant and urgent – 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 detained young people with their community and culture.

Developing cultural appropriateness

OICS's Review Standards require that the distinct cultural rights of Aboriginal and Torres Strait Islander detained young people are realised. In many ways, cultural rights and safety cuts across many of the other themes already identified. The cultural rights of Aboriginal and Torres Strait Islander people are protected in the HR Act, and must be considered by Bimberi staff in all decision-making. Cultural programs must also form a key part of the external services that come into Bimberi.

The *Children and Young People (Aboriginal and Torres Strait Islander Young People) Policy and Procedure 2018 (No 1)* outlines relevant principles, policy and practice regarding detained Aboriginal and Torres Strait Islander young people. This instrument covers key areas of engagement, including the requirement to partner with and deliver culturally specific programs and services; maintain positive relationships between detained young people 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. Nonetheless, in Healthy Centre Review 2020, OICS found that there was insufficient cultural awareness training for staff, given their role for the care and management of Aboriginal and Torres Strait Islander young people.

During this review, some improvements were observed. Bimberi staff complete a Cultural Development Program on induction which amounts to 2 days training including a walk on country and cultural planning. The Family Engagement Officer, an identified Aboriginal position, delivers a session to new Youth Detention Officers on 'Aboriginal and Torres Strait Islander Young People' as part of the induction program. Detained young people spoke positively of the Family Engagement Officer, who plays an important role in developing cultural safety and connection for detained young people.

Other aspects of positive practice were identified. The Youth Aboriginal Corporation, Gudan Gulwan, visits regularly to deliver an art program. Many stakeholders and young people spoke favourably about the weekly creative writing sessions provided by an Aboriginal academic and writer from the ANU College of Arts and Social Sciences.

The Review Team heard positive feedback from stakeholders about the growing presence of Justice Health ALO onsite. Specific support for Aboriginal women is a particular aspect of cultural safety. Initially, the Review Team was told that only a male ALO was visiting from CHS. However, we understand both a male and female ALOs are now visiting the Centre more regularly.

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. Detained young people are able to contact staff from the ALS and Legal Aid ACT free of charge on their phone accounts. The ability for young people to speak to their lawyers generally is discussed at [5.1.3](#).

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

The Centre is also in discussions with the Yindyamarra Project about an Aboriginal land care plan for young people.⁹¹

However, the Review Team found that much more could be done to build on this positive practice including:

- The inability of young people to have physical contact with visitors, discussed generally at [5.1.1](#), is also acutely felt by Aboriginal and Torres Strait Islander young people.
- Beyond their art program and school holiday programs, there are potentially greater opportunities for Gudan Gulwan Aboriginal Youth Centre to remain connected to detained young people known to their programs before detention.
- Many of the existing service providers are not funded to provide specific services to Bimberi and do so out of a strong commitment to detained Aboriginal and Torres Strait Islander young people. These services should be properly resourced and funded, given the importance of the work they do.
- There is no ongoing relationship with Winnunga and that their engagement to date has often been ad hoc and not in a capacity to provide health care directly to detained young people. The Centre is currently discussing the possibility of Winnunga delivering its anti-vaping program to young people.
- There is no Elders program for Bimberi, which is a missed opportunity to have detained young people remain connected to culture and benefit from community mentors.
- Some Aboriginal and Torres Strait Islander services would like to work solely with Aboriginal and Torres Strait Islander young people, but the Review Team understands that Bimberi require them to work with all detained young people.
- The JHS ALO team requires further resources to continue engaging regularly with the Centre, particularly to ensure an appropriate gender balance.
- CYPS develops cultural plans for children and young people subject to care and protection orders, but these are not routinely shared with Bimberi.
- As discussed at [2.2.3](#), Nazi hate symbols have not been removed from around the Centre. The Review Team was particularly concerned in Coree (admissions) unit to see prominent symbols, including the Nazi Hakenkreuz, where Aboriginal young people as young as 12 years old spend their first night(s) in custody.

91 The Yindyamarra Project is an Aboriginal Cultural Education, Mentoring, Tourism and Consultancy service.

- Detained young people often have family and cultural connections outside the ACT. Many of these young people are eager to engage more deeply in culture, including learning language. The CYRIS database captures information about a young person's cultural connections described in CYRIS as their 'Tribe', providing an opportunity for CSD to identify cultural identity for young people outside the ACT. The Review Team notes that Aboriginal and Torres Strait Islander people often prefer the term 'mob' including because an Aboriginal and Torres Strait Islander person may have multiple cultural connections.

OICS Healthy Centre Review 2020 recommended that CSD develop an Aboriginal and Torres Strait Islander Cultural Competency Framework specifically for Bimberi, to ensure that all aspects of Bimberi's services are culturally appropriate. The government agreed to that recommendation and in its latest update to OICS, suggested it was completed because 'cultural competency training embedded in training package.' Further information the government provided to the Review stated that:

Training options to increase cultural competency are being investigated and will become part of the Bimberi youth worker induction program from the first induction program in 2022.

A Cultural Competency Framework for Bimberi will be included on Children, Youth and Families' future work plan and will be developed when appropriate resources are identified and available.

The Review Team considers that this recommendation has not been completed. The recommendation sought to go beyond only adding a cultural awareness training package, and instead embed a framework that would contribute to Bimberi becoming a more culturally competent environment for detained young people 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'.⁹²

Finding 42:

Recommendation 14 of Healthy Centre Review 2020 has not been implemented and remains necessary. That recommendation was 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 appropriate and safe, including through appropriate staff training.

Finding 43:

Cultural support at Bimberi would be enhanced if CSD developed a database/network of key contacts for all Aboriginal nations in the ACT region and NSW, including those who can support cultural and language connection for detained young people.

⁹² 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* 27.

3.2.4 Culturally and linguistically diverse young people

The relevant OICS standard is that detained young people from culturally and linguistically diverse (CALD) backgrounds have fair and equitable access to services, activities and amenities, including services specifically related to their status as a culturally and linguistically diverse person. Indicators include that Bimberi consider styles of communication, engage and work with interpreters, and provide detained young people with access to community or faith leaders. Also relevant is the standard that young people are treated in a manner which is sensitive to their diverse needs, from competent staff in an environment that promotes dignity and maintains privacy.⁹³

The Review Team found that the engagement of the non-government organisation Multicultural Hub Canberra (MHUB) to provide cultural awareness training to detained young people is positive. In term 4 of 2023, MHUB, in partnership with Conflict Resolution Services, commenced a program at Bimberi based around cultural awareness which included conversations about racism. The program was directed at older young people (17 and older).

The program aims to connect young people with people and services within their community and establish connections for when they leave Bimberi. Activities included cooking, trivia, guest speakers and gardening. The program ran for 4 sessions in 2023 and MHUB returned again in 2024 to attend fortnightly during Term 2 2024.

Finding 44:

The engagement of Multicultural Hub Canberra is a positive development.

However, several current and formerly detained young people reported difficulties communicating with family members who did not speak English. In particular, one young person described Youth Detention Officers telling him he was required to speak to his mother only in English over the phone. He tried to explain that she did not speak English and attempted several alternative strategies, including suggesting his mother put the call on speaker so that that his siblings could translate, but the call was terminated as those siblings were not approved contacts. He told the Review Team that he even tried to explain to his mother, in her native language, that they could only communicate in English. However, this would result in Youth Detention Officers terminating the call. This was particularly difficult as his mother was unable to visit Bimberi in person, so phone was their primary means of communication.

In considering the experiences of detained Aboriginal young people, the *Royal Commission into the Protection and Detention of Children in the Northern Territory* was critical of detention centre staff preventing young people speaking in their native language:

In a broader context, denying the use of language deprives children and young people in detention of a means of maintaining their connection to culture and reducing feelings of alienation that accompany being separated from family and country.⁹⁴

Finding 45:

The Centre’s current approach to culturally and linguistically diverse young people communicating in their native language does not meet standard.

93 Standard 91 under Pillar 2C: Health, wellbeing and social care.
94 *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (Final Report, 17 November 2017) Volume 2A Chapter 16 page 401.

3.2.5 Detained young people 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% of young people in custody have a psychological disorder and 14% to 18% have an intellectual disability.⁹⁵ CSD's evaluation of its Allied Health Pilot at Bimberi, discussed further in this section below, notes that:

Australian and international research consistently identifies that young people with a disability are over-represented in the youth justice system. Data gathered during the current Allied Health Program pilot confirms that this is true of the population accessing Bimberi Youth Justice Centre.

Research published as part of the development of the ACT Disability Justice Strategy,⁹⁶ noted that Aboriginal and Torres Strait Islander children and young people are a particularly vulnerable group.

Of 800 young people on community orders in NSW, 20 per cent were Aboriginal and Torres Strait Islander with a comorbid intellectual disability that was considered to contribute to the risk of re-offending in this cohort. One study found that rates of incarceration were ten times higher for Aboriginal and Torres Strait Islander young people with an intellectual disability compared to young people in the general population, and three times the rate of other Aboriginal and Torres Strait Islander young people in the community.⁹⁷

It is a requirement of both ACT and Commonwealth law that service providers, employers and educators make reasonable adjustments for a person's disability.⁹⁸

ACT Government commitments

As noted in OICS Healthy Centre Review 2020, CSD has committed in the ACT Disability Justice Strategy, to developing and implementing a Disability Action and Inclusion Plan (DAIP) by 2022. OICS anticipated that this DAIP would detail Bimberi's plans to make its environment, programs, and services more accessible to people with a disability (including detained young people, staff and visitors). It would consolidate Bimberi's commitment to diversity and inclusion.

In October 2023, the ACT Government released its Fourth Annual Progress Report against the Disability Action Strategy, which stated that 'a DAIP for Children, Youth and Families will be developed and incorporated into a whole-of-CSD DAIP'.

Further, the ACT's *Disability Justice Strategy: First Action Plan 2019–2023* committed the government to seek to address goals and priorities for that strategy through the Blueprint for Youth Justice. This included by:

- Supporting actions of the Disability Justice Strategy and ensure learnings from youth justice initiatives inform ongoing implementation of the strategy

95 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. The NSW Government has indicated that it will publish a report in late 2024 with findings from surveys undertaken in 2022.

96 ACT Government, *Disability Justice Strategy 2019–2029: A strategy to address unequal access to justice in the ACT* <<https://www.act.gov.au/open/disability-justice-strategy>>

97 ACT Government, *Towards Disability Justice for the ACT: Summary of Research and consultations* (Report, 2019), 37.

98 *Discrimination Act 1991* (ACT); *Disability Discrimination Act 1992* (Cth).

- Improving capability of staff in the youth justice sector to identify, understand and respond to the needs of young people with disability
- Ensuring better data capture of disability issues
- Ensure all information provided to young people before, during and after a period of custody is accessible for people with disability.

As already discussed, the Blueprint for Youth Justice has expired. The *Annual Progress Report 2023 on the Disability Justice Strategy* does not mention the expired Blueprint. Neither does the *Evaluation of the Disability Justice Strategy – First Action Plan* undertaken by First Person Consulting, released in February 2024. The Review Team considers these actions are beyond the scope of Bimberi's management and staff, and are rather the responsibility of the broader CSD. The Review Team was disappointed to find they had not been implemented.

Finding 46:

Contrary to its public commitments, the Community Services Directorate has neither developed a Disability Action and Inclusion Plan generally, nor specifically for Bimberi. Nor has it progressed specific youth justice actions through the planned new Blueprint for youth justice. As identified in OICS Healthy Centre Review 2020, this undermines a more cohesive approach to the care of detained young people with disability.

Identifying disabilities and disability assessments on admission

In Healthy Centre Review 2020, OICS noted that Bimberi did not capture data on detained young people who identify as having a disability and who require reasonable adjustments, nor whether a detained young person has a National Disability Insurance Scheme (NDIS) plan. That Review found that Bimberi collecting data on disability to better understand and respond to needs could greatly improve Bimberi's interaction with and models for working with detained young people with disabilities. This is recognised in Goal 3 of the ACT Disability Justice Strategy which is that 'change is measured and achieved'.

A positive development since the last review is the development of a Tool for Identifying Reasonable Adjustments (TIRA) at Bimberi. The tool identifies areas of need and reasonable adjustments already in place for detained young people. Staff also complete observations and highlight areas that may need reasonable adjustments. The broad themes are:

- Difficulty with reading
- Difficulty concentrating
- Difficulty with memory

CSD told the Review that these themes are consistent with the research on disability needs within the youth justice population and are addressed universally in Bimberi through staff training (induction and skills maintenance) and modification to the way information is shared with young people and how staff interact with young people. For example, staff support young people to complete legal aid forms, explain young people's rights and routines in Bimberi and communicate information in a number of different ways.

CSD also advised that the BMF at Bimberi is responsive to these themes of reasonable adjustments to ensure all young people have equal opportunity.

For young people with more complex needs, support and engagement plans are developed to provide guidance to staff on how best to communicate and work with the young people. Young people provide input into these plans, as does their broader care team. These documents are tailored to each detained young person, covering relevant background information, noting relevant mental health or disability issues and providing instructions and tips on how to engage and support the young person. This information is also shared with Murrumbidgee School so that reasonable adjustments and supports are provided consistently across the centre.

The Review Team found these plans to be concise and practical to assist staff in productive, strengths-based engagement with young people. However, we were advised that due to resource constraints, and the high numbers of young people on remand, only five support and engagement plans were completed during the period of review. As almost all young people coming into Bimberi are likely to have complex needs, including arising from disability, mental ill-health and trauma, Bimberi should be resourced to complete these for most young people that are in Bimberi for a period beyond a few days. Completion should be a key performance indicator.

A further positive development is Bimberi recently engaged the ACT Disability, Aged and Carer Advocacy Service (ADACAS) to work with detained young people, particularly in the area of legal literacy.

The Review Team did identify some confusion as to how the results of the TIRA are being shared. The Daily Residents List, which is produced daily and captures information about young people, includes a column titled 'Reasonable Adjustment'. Confusingly, this column does not record whether a young person requires reasonable adjustments, but rather records if the young person had been screened using the TIRA tool, which is not the pertinent information staff need.

Finding 47:

The Support and Engagement Plans developed by the Principal Practitioner are an excellent initiative and should be expanded by further investment into this area at Bimberi.

Finding 48:

The current reference to 'Reasonable Adjustments' on the Daily Residents List is confusing and should instead record whether the detained young person requires reasonable adjustments.

Engagement with NDIS supports

The Review Team understands that the Principal Practitioner is endeavouring wherever possible to engage with a detained young person's NDIS service provider, including inviting providers to continue engaging with the young person while in Bimberi. This work was often supported by the Disability Liaison Officer in CSD, and positively, has on one occasion resulted in a NDIS funded Occupational Therapist attending the Centre to continue working with a detained young person.

Key Bimberi staff acknowledged that there are opportunities to conduct diagnostic assessment of young people while detained at Bimberi, while they are free of some of the instability that often surrounds their day-to-day life. Recent examples provided to the Review Team included Bimberi facilitating cognitive assessments to see if a detained young person was eligible for the NDIS, and the Principal Practitioner locating a previous assessment undertaken in the community, which concluded the detained young person had a history of trauma, but was not assessed as experiencing Autism Spectrum Disorder (ASD). The young person had not had the opportunity in the community to access those results.

However, these efforts were somewhat undermined by uncertainty about whether NDIS funding covers young people in detention, and the reluctance of some service providers to work with young people in the youth justice system.

While potentially outside Bimberi's control, the Review Team observed a lack of process for identifying and supporting young people with disability. Continuity of supports from NDIS providers was not routinely facilitated. This can have significant long-term impacts on a young person with disability, and may further exacerbate their condition.

The work of arranging disability assessments is resource intensive and, in the Review Team's view, requires additional staffing support.

The Review Team considers that this situation would be improved if the previous commitments made by the ACT Government in the Disability Justice Strategy were implemented.

Allied Health Pilot

OICS noted in Healthy Centre Review 2020 that Bimberi had recently commenced an Allied Health Pilot program at Bimberi to utilise the skills of a speech and language therapist, occupational therapist and clinical psychologists already within CYPS. This team conducted screening and assessment of detained young people, trained staff about reasonable adjustments and contributed to the development of programs and documentation. OICS concluded that this Allied Health Team filled an important gap in therapeutic services and should be continued, subject to any areas for improvement identified in the Pilot evaluation. That evaluation, completed in 2021, concluded that:

Within the short pilot time frame, Allied Health Services have supported the management of young people with highly complex needs and has enhanced trauma informed care in Bimberi Youth Justice Centre and in Narrabundah House... The preliminary findings of the current pilot indicate that long term embedding of allied health services in youth justice are necessary to adequately address the needs of this complex population.

The Allied Health Pilot had produced reports with clinically meaningful information and recommendations for reasonable adjustments that could be incorporated into Bimberi's engagement with young people including through BMPs and SMDs. The evaluation recommended that CSD:

- Consider establishing an Allied Health Team to provide assessment and short-term intervention services for young people in Bimberi and to young people in community who are engaged in the youth justice system. This could include working across Bimberi, Narrabundah House, Melaleuca Place, and the yet-to-be designed trauma service for adolescents based on Melaleuca Place's model.

- Consider implementing an Allied Health Team and Disability Liaison Officer in Bimberi to support development of policies and processes to accurately reflect the disability needs of the Youth Justice population.
- Consider developing service partnerships with Education Directorate to support transition and informed care by all service providers for young people engaged in the youth justice system and accessing education.

The Review Team was disappointed to learn that despite a strong evidence base to permanently establish such a team, the Allied Health Pilot was not renewed when it was completed in January 2021. CSD advised the Review Team that the ongoing funding for allied health services in Bimberi will be subject to future consideration as part of the whole of government budget process.

CSD must prioritise investment in an allied health team at Bimberi. The Support and Services Team is currently focussed on behaviour support. A broader allied health team could undertake further diagnostic work and intervention, and would be an important part of throughcare by continuing to support young people in the community. This seems particularly important in light of the difficulties some young people are experiencing engaging with the NDIS assessment and support plan process. At a minimum, this would help ensure that assessments begun in Bimberi can continue in the community if a young person is released unexpectedly. As members of the allied health team would be employees of CSD, information sharing would also be simplified.

Such a team could also support young people to engage with existing supports. Many of the effective interventions for young people rely on a good understanding of a young person's communication needs. An allied health team could also support the young people engage with new services and ensure Support and Engagement Plans are completed for all young people except those staying for a very short time.

As discussed in Appendix 2, detention centres in Spain (Diagrama) have psychologists and psychiatrists in every centre, as well as occupational therapists, speech therapists and other professional services. Detention centres in Denmark also have a minimum of one psychologist for every six security guards,⁹⁹ and in Norway there is a legal requirement for staff to consist of 50% social workers and the remaining 50% correctional staff must complete a two-year bachelor level qualification.¹⁰⁰

Bimberi has implemented the recommendation in OICS Healthy Centre Review 2020 that Bimberi incorporate mandatory basic training in disability awareness for all staff, with refresher training at appropriate intervals. The funding of permanent allied health support at Bimberi would further the goals of this recommendation.

Finding 49:

Recommendation 15 of OICS Health Centre Review 2020 that the Community Services Directorate provide ongoing funding for allied health services in Bimberi Youth Justice Centre has not been implemented and remains necessary and relevant.

99 Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022) 26.

100 M Dwyer and S Oostermeijer, A Model of the Design of Youth Custodial Facilities: Key Characteristics to Promote Effective Treatment; in D Moran et al (eds) *The Palgrave Handbook of Prison Design* (Palgrave Macmillan, Cham, 2023) 339, 352. Minimum being a bachelor degree in social work, preferably in child protection.

Recommendation 11:

That the ACT Government provide further resources to the Principal Practitioner's team at Bimberi to:

- a) Develop Support and Engagement Plans for the majority of young people detained in Bimberi (whose detention is longer than a few days)
- b) Ensure greater linkages with NDIS supports; and
- c) Provide enhanced allied health support to young people.

3.2.6 Religious, spiritual and cultural life*Religious and spiritual needs*

The relevant OICS standard requires that detained young people can satisfy their religious, spiritual and cultural life. This includes that all detained young people have easy and private access to representatives of their faith, and establish and maintain links with faith communities outside the youth detention centre. Further, the standards require that respect for religious or spiritual difference is promoted within the youth detention centre. Detained young people should be able to obtain, keep and use artefacts that have religious or cultural significance, provided they do not pose a genuine risk to safety or security.

At Bimberi, staff ask young people about their religious and cultural beliefs and practices at induction. Of the 21 young people detained in Bimberi on 30 June 2024, their demographic information as recorded in CYRIS indicated that 18 had no information about religious beliefs and two had an entry of 'no religion'. Only one young person had a nominated religion, being Islam. National trends also show a declining identification with formal religious beliefs. In the 2021 census, 45.6 per cent of people aged 15–24 years old identified as having secular beliefs, other spiritual beliefs or no religious affiliation at all. This was up from 37% in 2016.¹⁰¹

A chaplain from a Christian church visits Bimberi weekly on a voluntary basis to speak to the detained young people. However, in the same period an Imam who regularly provides services to detained people at the AMC was unable to negotiate ongoing visits to Bimberi despite a willingness to do so on a voluntary basis. The rationale for this inconsistency is unclear, particularly when, at least on 30 June, the only apparent formally declared religious belief of a young person in the Centre was Islam.

When a detained young person expresses a religious, spiritual or cultural belief other than Christianity, the Programs and Services Manager's role is to organise additional religious support. It was not clear what the Chaplain's role was more broadly particularly for the vast majority of detained young people that do not identify as Christian on admission. In its 2019 Healthy Prison Review of the AMC, OICS identified similar issues at the adult prison. In that report, OICS recommended that the ACT Government consider funding an expanded multi-faith Chaplaincy Team. The ACT Government agreed to the that recommendation, and subsequently completed a 'Statement of Requirement' for tendering Chaplaincy Coordination Services at the AMC, that importantly, is multi-faith.

¹⁰¹ Australian Bureau of Statistics, *Religious affiliation in Australia – Exploration of the changes in reported religion in the 2021 Census* (4 July 2022) <<https://www.abs.gov.au/articles/religious-affiliation-australia>>

In a recent review of Tasmania's youth detention facilities, the Tasmanian Custodial Inspector found that the Ashley Youth Detention Centre (AYDC) is highly dependent on volunteers, exclusively of the Christian faith. The Inspector recommended that AYDC consider establishing a formal chaplaincy program to provide a dedicated pastoral care service.¹⁰²

In Healthy Centre Review 2020, OICS noted that there is limited information about practising religion or culture in the Bimberi Handbook. That review highlighted that a detained young person may not feel comfortable nominating their religion at induction or be too overwhelmed to do so. Therefore, OICS suggested the Bimberi Handbook should include information about how a young person can nominate a religious belief at any time, and how they will be supported to meet their religious, spiritual and cultural needs.

The Review Team notes that the latest version of the Bimberi Handbook continues to be largely silent on religious or spiritual support. It simply states, by way of example, that a detained young person will be provided access to cultural, spiritual and religious guidance. There is no mention of how this will occur.

Finding 50:

As identified in OICS Healthy Centre Review 2020, the Bimberi Handbook contains insufficient information about how detained young people can practise their religion or culture in Bimberi Youth Justice Centre.

Finding 51:

Bimberi lacks a dedicated non-denominational chaplaincy program with clear policies and procedures about how the service is to facilitate and engage with multiple faiths and provide a dedicated pastoral care service.

3.3 Health, wellbeing and social care

Primary health services and forensic mental health services at Bimberi are provided by the Mental Health, Justice Health and Alcohol and Drugs Services area (MHJAHDS) of Canberra Health Services. Justice Health Services (JHS) is responsible for primary health services and Forensic Mental Health Services (FMHS) for mental health services at Bimberi.

3.3.1 Primary health care

In a positive practice, the Review Team found Bimberi meets detained young people's individual and ongoing health needs through an appropriate range of care services.

Bimberi has a health clinic that operates seven days a week with a single Registered Nurse (RN2) on site from 8:00am to 4:30pm. Bimberi also has a weekly General Practitioner (GP) clinic. After hours support is through an on-call phone-based support service to a JHS Medical Officer.

102 Office of the Custodial Inspector Tasmania, *Youth wellbeing inspection report* (Report, 25 July 2024) 25–26.

Given the low number of detained young people in Bimberi, the Review Team considers this model to be appropriate. The Review Team acknowledges that the short length of stay of most young people provides challenges for any interventional approach to health care delivery, health education and health management.

However, extending the hours a nurse is on-site at Bimberi, even by a few hours either side of current shift times, could address several issues.

Firstly, young people are often transported by the CTU for court prior to the nurse coming on shift. This has created some complexity for young people who require morning medication and leave the Centre before the nurse arrives. The Review Team understands this is being addressed currently by the nurse preparing medications the night before, to be dispensed by Youth Detention Officers in the morning. However, the nurse being on-shift 30 minutes earlier would likely allow the morning medication to be dispensed as usual for those young people going to court.

Secondly, young people engage in programs, activities and sport until 5:30pm each day. The Review Team agrees there is considerable benefit in these activities, although they can sometimes result in young people suffering injuries. This can result in a medical code being called, even for relatively minor injuries. The consequences of emergency codes being called generally, including resulting centre wide lock downs, are discussed at 4.1.2. The nurse being onsite could reduce the need and duration of centre-wide lockdowns resulting from injuries, and ensure timely medical attention is provided.

The Review Team understands that JHS is already considering extending the provision of nursing at Bimberi through the rotation of multiple nurses. This would mean there is a registered nurse on site from 6:30am.

Finding 52:
Bimberi Youth Justice Centre has an appropriate primary health care model.
Finding 53:
The hours of nurses at Bimberi could be extended, to better support the regime of the Bimberi Youth Justice Centre. Justice Health Services is currently considering a change to these hours.
Finding 54:
OICS Healthy Centre Review 2020 identified that health staff were sharing an open plan office space with Bimberi staff. This was noted to be inappropriate as it compromised confidentiality of health information. The installation of a partition has now addressed this matter.
Finding 55:
The safety and egress issues in the health centre at Bimberi identified in OICS Healthy Centre Review 2020 remain a risk if a detained young person were to become aggressive.

Health needs of detained young peoples

In Healthy Centre Review 2020, OICS found that there had been no formal assessment of the health needs of young people in custody in the ACT to ensure services are delivered on a firm evidence base. Despite this, the ACT Government has not undertaken a population-based assessment of the health needs of young people in custody. Population-based assessments have been conducted by Juvenile Justice NSW and the Justice Health and Forensic Mental Health Network, who have published 'Young People in Custody Health Surveys.'

Given the population size of Bimberi, utilising other jurisdictions evidence-based assessment tools of the health needs of detained young people may be appropriate. If so, Bimberi should participate in cross-jurisdictional research to assess the health needs of ACT detained young people in detention.

Finding 56:

Despite a finding in OICS Healthy Centre Review 2020 that there is no data collected on the health needs of detained young people at Bimberi Youth Justice Centre, Bimberi still lacks a population based assessment of the health needs of detained young people.

Health promotion and education

As noted in Healthy Centre Review 2020, a key role of the primary health model within youth justice settings is health education and health literacy. Although detained young people stay, on average, for a period of weeks, this is an opportunity to increase detained young people's 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 School's health education activities.

In Healthy Centre Review 2020, OICS recommended that JHS commission an independent review of the health education model with a view to identifying gaps and developing an evidence-based comprehensive health education program. The recommendation was agreed-in-principle. OICS was informed in March 2024 that the government considered this recommendation closed as JHS, FMHS and the Education Directorate had met and agreed that FMHS and JHS will contribute to Murrumbidgee School's delivery of health components of the Australian Curriculum on request. In addition, FMHS has developed a proposal for psychoeducation and skills building sessions at Bimberi. FMHS intends to provide young people transitioning into Bimberi with opportunity to engage in two to three structured, brief, evidence-based sessions targeting common issues and mental health concerns young people experience. In doing so, the service aims to fill the current gap for young people who may be in custody for a brief period, and/or those unlikely to continue engaging with FMHS post-induction; ensuring they are provided with evidence-based care and support for their mental health in a time-sensitive manner.

While the approach sounds promising, the Review Team was unable to find evidence of these sessions being delivered at Bimberi during the review period.

The Review Team did find that JHS medical and nursing staff provide opportunistic health education during the health assessment process and during primary health clinics. There are posters on the wall in the clinic waiting areas – although some are torn, faded, branded with no-longer current contact details. It seems that there has been little attention paid to the purpose or effectiveness of this information.

In the area of drug and alcohol treatment and education, the Ted Noffs Foundation provide some alcohol and other drug health promotion sessions on a one-on-one basis with detained young people. In the past, Winnunga ran a quit smoking program at Bimberi. The Review Team heard that preliminary discussions about Winnunga being re-engaged for an anti-vaping program were underway. Canberra Health Alcohol and Drug Services (ADS), Youth Drug and Alcohol Counselling Service previously provided counselling for detained young people referred by Bimberi or CYPs, but once again, the current situation is unclear.

The Review Team were told of a small number of cases of detained young people with complex alcohol and other drug dependencies whose ultimate assessment and treatment plans were well co-ordinated by JHS, FMH and the ADS of CHS.

Overall, the Review Team’s impression is that all these discipline-specific activities, where they exist at all, are not integrated into the model of care with primary health. In 2019 the ACT Human Rights Commission recommended that ACT Health review the drug and alcohol services and programs currently available at Bimberi, and consideration be given to increasing the youth drug and alcohol counselling resources available from CHS and ACT Health to young people at Bimberi.¹⁰³ Since then, it appears the number of supports for AOD counselling has actually diminished, with no regular CHS programs visiting the Centre.

Regarding population health and sexual health, the Registered Nurse offers opportunistic sexually transmitted infection and blood borne virus screening on induction. At times, Sexual Health and Family Planning ACT has also provide education for young people on safer sexual behaviours. However, this is ad hoc and there does not appear to be a dedicated screening or health promotion and risk prevention program. Condoms are provided in the “Exit Pack”, prepared for young people when they leave.

These findings further support the conclusions of the Review Team at 5.4 that there are opportunities for more discussion, coordination and strategic planning across Health, Education and CSD regarding which programs are provided at Bimberi.

Finding 57:

There is no comprehensive health education program at Bimberi Youth Justice Centre despite the recommendation in OICS’s Healthy Centre Review 2020 that Justice Health Services commission an independent review of the health education model at Bimberi. Similarly, it appears that drug and alcohol supports and counselling are inadequate.

103 ACT Human Rights Commission, *Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre* (Report, 2019) 89–90.

3.3.2 Medication management

The relevant OICS Review Standards that detained young people receive community equivalent medicines and that Bimberi has safe facilities and procedures for the distribution of medication have not been met.

The Canberra Hospital (TCH) dispenses medication for Bimberi in individual dose sachets. This is best practice and reduces the risk of medication errors. General Practitioners may prescribe medication remotely using an electronic medication management system, which provides for the ordering of the medication to be dispensed in individual sachets and recording of medication administration by the Registered Nurse. Members of the Review Team observed medication rounds at Bimberi. Different issues were identified by the Review Team in relation to morning and evening medications.

For evening medications, a Youth Detention Officer picks up a pre-prepared medication trolley from the clinic, and then goes unit-to-unit to dispense pre-dispensed medication sachets to detained young people. This typically occurs between 6:00pm and 7:00pm. There is no registered nurse on-site at this time. The TCH pharmacist prepares the medication, and the onsite JHS Register Nurse re-checks later that day. The Youth Detention Officer identifies each detained young person and then observes them self-dosing from the pre-packaged single dose medication.

Youth Detention Officers administering medication have done some special training, and the legislation makes provision for this practice to continue. The Youth Detention Officers and the Registered Nurse 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 Registered Nurse. However, as noted in OICS Healthy Centre Review 2020, some evening medications may not be delivered at a time that has explicitly be prescribed and are clinically appropriate. As already identified, extending the hours of the JHS nurse on-site may alleviate this.

In relation to morning medication, once again, as noted in previous reviews, going back to the ACT Human Rights Commission's 2011 report,¹⁰⁴ access to routine healthcare such as morning medications is controlled by the Centre routines, including the requirement to always escort a young person from their unit to the health clinic. Despite numerous requests from JHS to Bimberi for young people to be given their morning medications at times specific for the clinical need, little progress has been achieved. This is despite earlier reviews identifying alternative means to manage this issue in other youth detention facilities. While on site, the Review Team observed health staff waiting for prolonged periods for young people to be brought to the clinic for medication.

Finding 58:

Bimberi management and Justice Health Service have not yet satisfactorily addressed the issue of timely administration of medications.

In discussions with the Review Team, the Clinical Director of JHS,¹⁰⁵ and the attending FMHS Adolescent Forensic Psychiatrist suggested that they were sympathetic to the idea that some detained young people could retain some medications "on person" – for self-medication at a time more clinically indicated, noting that this would be after the young person had been locked into their cell.

¹⁰⁴ Ibid 287.

¹⁰⁵ Also the doctor appointed by Canberra Health Services under s 97 of the CYP Act to provide preventative and remedial health services to detained young people.

3.3.3 Oral health

The CHS dental service provides dental and oral health at Bimberi. The Review Team was told that a dentist usually attends the site via a dental truck, on a regular basis, but that the truck had not visited recently. Instead, community-based dental services were being booked for detained young people.

As the dental truck was not at the Centre, we were unable to review the dental services that are provided. However, the Review Team observed a young person being escorted offsite for a dental appointment. A review of the CYRIS database indicated that in the previous six months, two young people had been escorted to dental appointments outside the Centre.

3.3.4 Aboriginal and Torres Strait Islander health

Contrary to the requirements of the OICS Standards, Aboriginal and Torres Strait Islander detained young people do not have access to comprehensive, culturally safe Aboriginal primary health services. JHS make limited referrals to Winnunga which may provide health services to these young people in the community on a case-by-case basis, rather than there being any formal funded partnership and provision of health services, as occurs at the AMC.

JHS has nonetheless made substantial progress in establishing its own discrete, culturally appropriate Aboriginal primary health service including through the establishment of a team of ALOs. This somewhat progresses implementation of recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC).

However, recommendation 152 of the RCIADIC specifically requires detaining authorities to work with Aboriginal Community Controlled Health Organisation (ACCHO), including involving such services in the provision of general and mental health care to Aboriginal and Torres Strait Islander detained people. The Review Team found no evidence of vision or plans regarding such a partnership with an ACCHO such as Winnunga.

The Australian Government has developed an 'Item 715' annual health check for Aboriginal and Torres Strait Islander peoples. These health-checks are conducted at Bimberi with JHS employed ALOs. However, this assessment is undertaken in the absence of an ACCHO. This clinical item is currently not reimbursed by the Health Insurance Commission. The investment in ALOs is a welcome initiative of JHS, but does not fully respond to recommendations of the RCIADIC.

Finding 59:

Aboriginal and Torres Strait Islander detained young people in Bimberi Youth Justice Centre do not have access to fully comprehensive and culturally appropriate Aboriginal primary health services.

Recommendation 12:

ACT Government commit to work with an Aboriginal Community-Controlled Health Organisation to further progress a culturally safe and competent service at Bimberi.

3.3.5 Mental health

The relevant OICS Review Standard that there be age-appropriate mental health services available for detained young people with actual or suspected mental health conditions at Bimberi was found to be met. Mental health services at Bimberi are provided by FMHS branch of MHJHADS.

FMHS operates a weekly mental health clinic for detained young people at Bimberi. An adolescent psychiatrist attends Bimberi one day a fortnight. Typically, two FMHS primary clinicians also attend Bimberi on Tuesdays and Thursdays. These clinicians are currently both allied health professionals, one being a psychologist and the other a social worker. Onsite attendance is primarily based on clinical indication and need, and both clinicians may be at the centre on alternative/additional days dependent on clinical requirements.

FMHS provides a daily service for induction mental health screenings and crisis assessment and management of detained young people at immediate risk of self-harm or suicide. Assessment may occur in person or via audio-visual link.

As at 30 June 2024, there were 14 young people currently engaged with the FMHS, out of a total of 22 detained young people (64%). Of those young people engage with FMHS, there was one young person registered with the Assertive Response Team for crisis mental health care, and 13 registered with the clinical management team for ongoing special mental health care.

During the Review period of 1 January to 30 June 2024, there were 28 at-risk referrals submitted for detained young people, an average of 4.7 per month. During the same period, 63 young people engaged in a mental health induction assessment (an average of 10.5 per month).

Overall, the mental health services are provided equitably in Bimberi to those with the services provided in the community. The Review Team is satisfied that medication is being prescribed to young people at Bimberi, with an appropriate diagnosis.

Psychotropic medications and melatonin to support sleep hygiene contribute most to the medications prescribed by the psychiatrist, at the time of the Review. Therefore, the timely distribution of medications already discussed is particularly important.

Psychological support for detained young people

In Healthy Centre Review 2020, OICS found that there were insufficient coordinated services in Bimberi for adjustment disorders, mild-to-moderate mental health conditions and grief and loss support. Detained young people who were not eligible for psychological services through FMHS had their therapeutic needs identified on an ad hoc basis, largely through external services.

The Review Team found this situation had improved. One particularly positive development was the inception of an Intensive Case Management meeting, which the Review Team observed. This meeting seeks to provide a collaborative forum for Bimberi and FMHS to discuss complex clients. The meeting is convened on an approximately fortnightly basis and chaired by the Executive Director (CSD), Centre Manager or Principal Practitioner. A shared care plan is developed from the discussion, and shared across Bimberi and FMHS staff.

Also positive was that FMHS reported to the Review Team that it applies a lower threshold for providing services to a young person in Bimberi compared to that applied in the community. Generally, if a detained young person wishes to engage with FMHS, they will be accepted into the service and supported.

It was also apparent to the Review Team that the Principal Practitioner was engaging with all young people to identify the supports they needed, including through the engagement of external services. FMHS will also support young people with clinical complexity that couldn't be serviced by a primary health care system. For example, in the community a young person with a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD) would be managed by a paediatrician. As that service is not available in Bimberi, FMHS ensure the standard of community equivalence is achieved by FMHS providing this service. A similar approach is taken for detained young people presenting with (relatively) mild depression or anxiety symptoms.

Often FMHS will invite their community equivalent, Child and Adolescent Mental Health Services (CAHMS) to attend Bimberi while a detained young person is in custody to begin developing a relationship and rapport.

As discussed at 3.2.5, this positive practice would be further enhanced by the re-establishment of greater allied health support at Bimberi, and greater collaboration between Directorates on a strategic approach to the delivery of programs at Bimberi (see 5.4).

The Review Team was heartened to see excellent collaboration already between the Principal Practitioner and the acting FMHS Clinical Director, and suggests this provides a strong foundation for further improvement.

Finding 60:

There is a strong sense of collaboration between Bimberi’s Support and Services Team and Forensic Mental Health Services to provide psychological services, which could be further enhanced with greater funding and development of a strategic approach to services and additional ‘in-house’ allied health services.

Self-harm and suicide prevention

The Review Standard that detained young people 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.

Table 5: Rate (per 10,000 custody nights) of incidents of self-harm and attempted suicide in youth detention in the ACT

Year	Incidents requiring hospitalisation	Incidents not requiring hospitalisation but received psychological or medical treatment
2019–20	-	5.3
2020–21	-	15.4
2021–22	not published	not published
2022–23	1.5	2.9

Data source: Report on Government Services (2024), Youth justice services, Table 17A.19

3.3.6 Discharge planning

A challenge for the provision of primary health services at Bimberi is that it will not always be apparent to CHS if (and who) a young person's GP is in the community. As different electronic health record systems are operated by various parts of the health system, ensuring there is a single source of information about a youth person, particularly one with a history of trauma and out of home care, is challenging.

If a young person's community GP is known, with consent CHS will provide a discharge summary to that GP on the young person's release from Bimberi. For those where the GP is unknown, CHS has developed a constructive approach by providing the discharge summary to the Junction Health Service (The Junction) with the consent of the young person.

The Junction provides bulk-billed health care and support services to homeless or disadvantaged young people (aged 12 to 25 years old) and their dependent children.

While understandable that CHS has taken this approach, it can create complexity when The Junction receives health information about a young person who has never attended their service. The Junction is currently not funded to visit Bimberi, but with additional funding, could attend via its 'Health Van' as a way to familiarise young people with the service and develop a pathway for warm referrals.

The Review Team also heard there is a related challenge for GPs in the community, when a young person presents to them who was previously detained in Bimberi, and the GP is unsure how to go about seeking their previous health records.

The General Practitioner Liaison Unit, based at TCH, is a service within CHS that could be used to address these issues. This Unit provides a liaison point between community GPs and CHS.

Finding 61:

Discharge planning for detained young people lacks comprehensive engagement with key stakeholders like The Junction Health Service and Canberra Health Services General Practitioner Liaison Unit.

CHAPTER 4

Purposeful activity



4. Purposeful activity

4.1 Time out of cells and units

4.1.1 Daily routine

The relevant OICS Review Standard that detained young people have a structured daily routine was found to be substantially met, however centre wide lock downs due to codes and the separation of young people who are not permitted to mix on safety and security grounds prevents this routine being optimised.

On Monday to Friday, between 8:30am-9am, staff wake young people and unlock their doors. On Tuesdays and Sundays, staff release young people from their cells later, to facilitate staff training which nominally ends at 9:30am. On some occasions this can be later.

The day is then split into five education lessons, with three meal breaks in between. There are two afternoon programs run, such as gym or pool, and then dinner is served in takeaway packs in the unit at 5:30pm. At various times, young people may be permitted to play PlayStation. After dinner, detained young people complete their chores and have free time in the unit before staff lock them in their cells at 7:30pm. On weekends, the routine is roughly the same, except several programs are scheduled in place of lessons.

Restrictions on detained young people attending programs, lessons and activities together

Bimberi management risk assesses the program and lesson timetables daily to determine which detained young people can attend parts of the Centre together. It is positive that a dynamic approach is taken to mixing through a daily assessment, which Bimberi management communicate to all staff via the morning briefing. However, the Review Team understands these assessments are undertaken on an informal basis.

As in the OICS Healthy Centre Review 2020, young people again expressed a strong desire to mix more with other young people. They described prolonged periods of only being able to mix with others in their unit for most of the day, and how this could be very challenging for their mental health and sometimes it put them 'on edge' when they did have an opportunity to interact with others.

The Review Team appreciates that this is a complex issue for Bimberi to manage. They are responsible for the safety of young people and staff and must utilise intelligence to continually assess risk. This must be balanced with the importance of a change of environment and positive peer interaction to healthy development, particularly for mental health. In addition, mixing can provide an opportunity to develop or put into practice conflict resolution skills and learning to co-exist with others.

However, the Review Team's impression is that the risk environment is akin to a high security adult facility. Young people are constantly monitored by staff or cameras, escorted individually or in small groups around the Centre, and during the days onsite there were no larger group activities observed such as group sport or mingling between units for shared meals during the day.

In her research, Bjur found that young people in overseas jurisdictions responded well to opportunities to test out new skills and freedoms while in detention.

Opportunities to practice new skills and take on additional responsibilities can occur within the secure setting. Young people may be given more control over their day or movements, such as walking around the centre without an accompanying staff member or selecting their own after-school activities. Many secure settings have reintegration or autonomy units, where selected young people live with minimal staff support and are given their own keys.¹⁰⁶

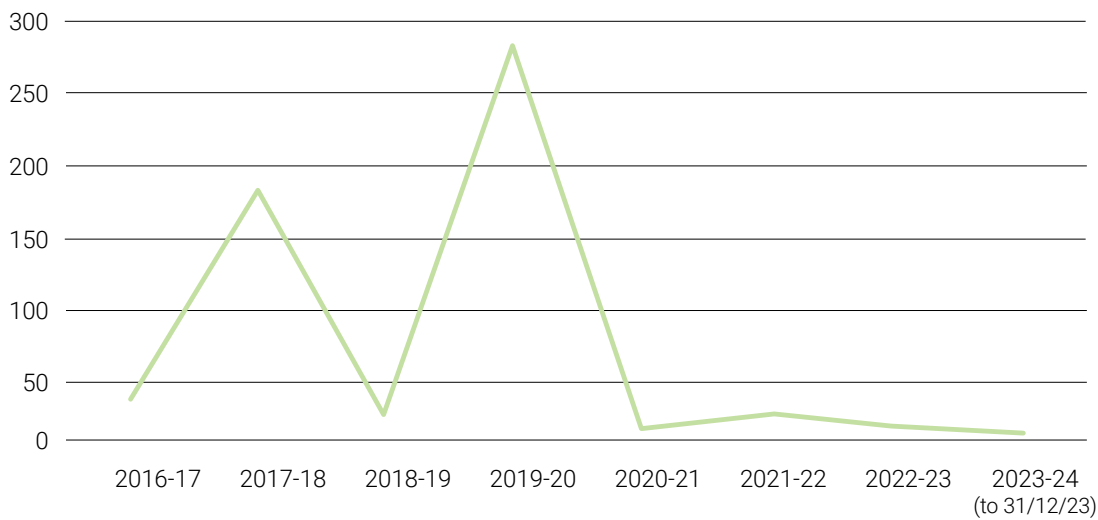
This is reflected in feedback from young people to this Review, including a desire to move around Bimberi more freely.

Finding 62:

Detained young people want to mix with other young people more frequently and move around the Centre more freely.

4.1.2 Lockdowns

Figure 8: Operational lockdowns



Data source: Bimberi Headline Indicators, May 2024 and ACTHRC Annual Report 2023–24

* For several months during the 2019–20 financial year, Bimberi experienced extensive staffing shortages which is reflected in the increase in lockdowns during this period. These shortages were exacerbated by unpredictable staff availability due to unplanned personal leave, the unprecedented bushfire season, and COVID-19 restrictions

** The increase in lockdowns in 2021–22 was a result of COVID-19 impacts on the operations of the centre and staffing capacity.

106 Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022) 27. See also Matthew Dwyer and Sanne Oostermeijer, ‘Keeping Kids Close – Can Juvenile Justice Detention be a place of healing?’ in Kate Bishop and Katina Dimoulas (eds), *The Routledge Handbook on the Influence of Built Environments on Diverse Childhoods* (Routledge, 2024) 352, 360.

In previous years, young people were subject to lock downs because of staff shortages. Positively, lockdowns due to staff shortages has significantly reduced. Bimberi management are to be commended on their ongoing focus on recruitment which has contributed to a significant increase in time out of cells compared to 2019/20.

Finding 63:

Bimberi has rostered on sufficient staff to ensure the Centre is not locked down due to staff shortages.

Healthy Centre Review 2020 identified that Bimberi staff locking down the entire centre in response to emergency incidents were adversely impacting centre routine, resulting in children and young people being isolated, usually in their cells for the duration of the lockdown. That review recommended that Bimberi consider options to avoid centre-wide operational lockdowns in response to emergencies and other incidents, and mitigate the impacts on children and young people. The ACT Government agreed to this recommendation, and marked it as completed in May 2023. Despite this, in the 2023 NPM Isolation Review, OICS found the practice remains a matter of ongoing concern for children and young people.

Bimberi's 2022 Emergency Operating Plan (the EOP) provides a framework for responding to operational incidents that require an emergency response.

The EOP indicates that when an emergency code is called, all (non-emergency) movements around the Centre are to cease and, if necessary, children and young people will be secured in place in their current locations (or to an evacuation point depending on the incident), along with a head count. The EOP does not require that the Warden must direct staff to escort all children and young people immediately to their residential units to be secured in their cells. Instead, this is an optional further response the Warden may impose following a risk assessment. The EOP requires that the Chief Warden demonstrates they have considered the matters outlined in the code checklists for each emergency event, including the nature and scale of the incident.

Staff views on de-escalation

Staff comments when asked to what extent do you agree with the following statement – *I should take as long as is needed to de-escalate a situation with a young person to avoid a use of force, provided there is not an immediate risk to the safety of myself, colleagues or other young people?*

"I agree with the statement about de-escalation however my experience is that youth workers often do not agree/do not act in this manner."

"I strongly agree that UOF [use of force] is a last resort. However, it is counter productive to negotiate for multiple hours, this enables a young person to continue to push boundaries. It is not fair for other young people secured in their rooms during lengthy negotiation periods (hours), therefore UOF with reasonable warnings and good negotiation period may be required even if there is not an immediate risk to safety."

"You have an entire centre to be considering, not just the potential singular Young Person who could be in a situation needing negotiation. Considering what happens when the centre is released from cabins after an extensive period of time, when all that was done was talking/negotiating. Consider the history of the YP [young people] and trust your knowledge of them, if they are wanting attention, doing it deliberately, knowing when is enough time when the negotiations are like hitting a ball against the drapes. You know whether or not you are getting somewhere or are close to encouraging the YP to make the positive decision or not."

"Our centre is small. So, majority of the time I understand that we have to lock it down, provided, we can continue if courts (AVL) are still running. Pending what time [sic] of emergency code it is. I also understand that 'Use of force' is our last resort. We have good negotiators here, but we also have 'developing' negotiators who are still working through it."

"When negotiation is in progress Staff and management take into account how a prolonged incident may effect other YP [young people] if they have been secured in their cabin for a long period of time. Our goal is to always negotiate for as long as safely possible to manage a situation, we consider this the best out come to de-escalate a situation and support YP through difficult issues they may be facing. Avoiding Use of force is always a priority when managing our YP."

The Review Team spoke at length to a number of staff and young people about emergency codes and directly experienced several codes while on site. The Review Team concluded, inconsistent with the guidance in the EOP, that the accepted practice for all emergency codes is that the Warden directs staff to complete a full centre lockdown including returning all young people to their allocated residential units and securing them in their cells. As identified in the 2023 NPM Isolation Review, this practice contributes to the disruption of daily routines and key services, such as temporarily withdrawing young people from education, health, visits, recreation activities, induction assessments, and court escorts. It also impacts any external organisations that have engagements with young people scheduled. In turn this reduces meaningful human contact and increases the time that young people experience isolation.

The Review Team was informed by Bimberi senior managers that the Warden usually orders a full centre lockdown to ensure a consistent approach to emergency codes for young people. Further, this approach also ensures there are sufficient staff to manage the risk of escalation and secondary incidents, and to resolve incidents as quickly as possible. We were advised that the lock in period is used for an incident debrief once the incident is stood down, and completion of relevant paperwork. Members of the Review Team observed an incident debrief that went for approximately 10 minutes.

However, the Review Team is concerned centre wide lock downs may in fact heighten tensions within the centre. Detained young people reported that whole of centre lockdowns are a source of ongoing frustration and feel like a form of collective punishment. Young people may be engaged in meaningful activity in a completely different area of the Centre, and behaving appropriately, yet staff tell them to cease that activity and secure them in their cells.

Recommendation 4 of the 2023 NPM Isolation Review concerned compliance with the EOP. The Review Team concludes that recommendation has not be implemented.

Finding 64:

The usual practice at Bimberi is to lock down the entire centre once an emergency code is called.

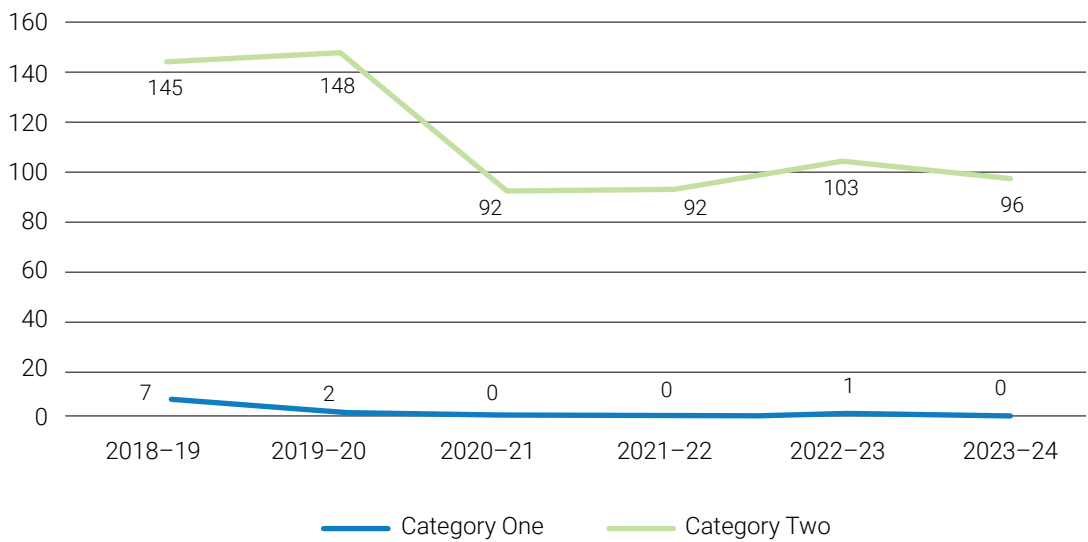
Finding 65:

Recommendation 4 of the OICS 2023 NPM Isolation Review, that the Community Services Directorate ensure compliance with the Bimberi Emergency Operating Plan, has not been implemented.

Recommendation 13:

Bimberi cease the practice of locking down the Centre after every emergency code.

Figure 9: Incidents



Category one incidents are defined as all serious incidents where the Executive Branch Manager is to be notified immediately. This includes but is not limited to attempted suicide, serious injury, serious health complaint, escape and serious assault.

Category two incidents are defined as all other incidents such as contagious disease, minor breach of security, assault, fights, significant disturbance to the Centre, and incidents involving visitors to Bimberi, among other things. Source: Bimberi Headline Report updated for 2023-24 by OICS

Lockdown register

In Healthy Centre Review 2020, OICS expressed concern about the recording of lockdowns and extended overnight lock-ins. This followed the recommendation of the ACT Human Rights Commission in 2019 that all operational lockdowns, code lockdowns and extended overnight lock-ins be recorded in a lockdown register that is subject to oversight.¹⁰⁷ The ACT Government accepted this recommendation.

Bimberi advised in 2020 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. The aim of this transition was to allow greater oversight by the PACYPC and more detailed interrogation of the data.

During the OICS NPM Isolation Review 2023, OICS concluded that CSD had not satisfactorily implemented the ACT Human Rights Commission 2019 recommendation to centralise lockdown data in an electronic format. That Review made two recommendations regarding lockdown and segregation data. During this Review, the Review Team was unable to identify such a log in CYRIS or elsewhere.

107 ACT Human Rights Commission, Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre (Report, 2019) 70.

Finding 66:

Recommendations 12 and 13 of the 2023 NPM Isolation Review have not been implemented and remain relevant. Recommendation 12 was that the Community Services Directorate develop and maintain a consolidated register of Bimberi lockdowns of all categories, duration, location, reason, and number of children and young people affected, gender and Aboriginality on each occasion; and conduct regular compliance checks; to facilitate accountability and regular review by Bimberi senior management, and to allow effective external monitoring of the use of these restrictive interventions. Recommendation 13 was that the ACT Government publicly report on time out of cells as a service delivery output as an indicator of governments' objective of providing a safe, secure and humane youth detention environment.

Proper recording of incidents

Staff called three emergency codes while the Review Team were onsite on 3 June 2024 due to incidents. However, as at the end of August 2024, the Review Team could only identify one of the three incidents properly recorded in the list of incident reports on the CYRIS database.

4.2 Education

All young people in the ACT have the right to education.¹⁰⁸ The Review Team found that young people at Bimberi are engaged in a program of education, learning and skill development to meet their individual needs.

Education in Bimberi is delivered by Murrumbidgee School, part of the ACT Education Directorate. Murrumbidgee School is established under the *Education Act 2004* as a 'school-related institution'.¹⁰⁹ The director-general must determine the composition of the board of a school-related institution with the written approval of the Minister.¹¹⁰ The functions of the school board include to:

- Establish a strategic direction and priorities
- Monitor and review school performance, and report on it to the director-general, parents and staff
- Develop, maintain and review curriculum for the school.¹¹¹

The members of the Murrumbidgee School board include the Bimberi Centre Manager, manager of student support, community members, Murrumbidgee School teachers and a student of Murrumbidgee School.¹¹²

¹⁰⁸ See eg, *Human Rights Act 2004*, section 27A.

¹⁰⁹ *Education Act 2004* s 20(3).

¹¹⁰ *Education Act 2004* s 43.

¹¹¹ *Education Act 2004* s 39.

¹¹² *Education (School Boards of School-Related Institutions) Murrumbidgee Education and Training Centre Determination 2010*.

Murrumbidgee School conducts an initial education assessment of all young people on arrival to determine their educational and development strengths and needs. Murrumbidgee School then develops an Individual Learning Plan in collaboration with the detained young person. During the review period, the school was supporting a number of young people to achieve academic outcomes, including supporting two young people to complete their year 12 qualifications. Other young people are provided work at level but particularly for young people on remand, their short stays of uncertain duration may limit the ability to link them to any community-based schooling they are involved in or specific academic outcomes.

Almost all young people spoke of education highly, and generally rated it as one of the most positive experiences of their time at Bimberi. The Review Team was told that young people are usually more settled in education compared to other areas of the centre. This was often due to teachers developing strategies to assist them, such as regular breaks and walks around the Centre. The Review Team observed several teachers with strong rapport with young people. For example, one young person, on release did not want to leave the Centre before he was able to say goodbye to his teacher.

Education staff also spoke generally favourably about their relationship with key Bimberi staff.

Finding 67:

Detained young people speak positively about their experiences at Murrumbidgee School, supported by a strong working relationship between Education and Community Services Directorate staff.

4.2.1 Access to education

In Healthy Centre Review 2020, OICS noted concerns about Bimberi staff excluding young people from the Murrumbidgee School due to behavioural issues or risk assessment. During this review period, OICS identified 4 young people subject to SMDs and/or segregation directions which affected their attendance at the Murrumbidgee School in person during school term. Restrictions included ‘no programs with mixing’, ‘no crossing paths’ and ‘school work in unit’.

As discuss at 2.3.2, decisions to impose SMDs do not explicitly consider relevant human rights as required under the HR Act, and therefore had no consideration of the impact on the young people’s right to education.

Finding 68:

The decision to make Special Management Directions does not adequately consider the right to education of detained young people.

4.2.2 Behaviour management in Murrumbidgee School

As discussed at 2.3, the positive practice identified in the OICS's Healthy Centre Review 2020 that Murrumbidgee School and Bimberi have aligned behaviour management processes was found to have continued in this Review. Detained young people can earn incentive points while at education. Stakeholders reported that Bimberi's recently revised BMF also aligns well with the whole of ACT public education system's Positive Behaviour for Learning (PBL) system.

Murrumbidgee School has also recently implemented a new system to track the behaviour of young people through the week so that there is transparency and fairness to selecting the student of the week.

Finding 69:

Bimberi and Murrumbidgee School have aligned approaches to rewarding positive behaviour.

However, as discussed at 2.5.4, Youth Detention Officers attend all education and program classes, which appears a disproportionately risk adverse approach and may hamper the ability of teachers and other program providers to build rapport with young people.

4.2.3 Internet access

OICS's Healthy Centre Review 2020 found that detained young people do not have access to the internet (appropriately limited) and this was a significant issue for their access to education, contact with the outside world (eg news and current affairs) and preparation for release (eg making detention more 'normalised' to the outside world). The report noted that adult detained people have access to email to approved addresses and whitelisted websites at AMC, which assists with education and maintaining contact with family and community.

While the Review Team notes work has been ongoing for some time to provide access to the internet through education, but had not been completed at the time of writing.

Finding 70:

The Recommendation in OICS's Healthy Centre Review 2020 that the Education and Community Services Directorates establish an appropriate restricted internet platform to support the education of young detainees has not been implemented and remains relevant.

4.2.4 Leave for education/training purposes

As discussed at 3.2.1, Bimberi has generally not provided leave opportunities for young people, particularly those on remand, to leave the Centre for any purpose other than a health appointment.

While there are some vocational study opportunities available to young people at Bimberi (woodwork, horticulture) the opportunities for young people would be greatly enhanced if they were able to leave the Centre for education, training and employment opportunities. Only two leave passes were provided for this purpose during 2023–24, and this related to only one sentenced young person. The Review Team considers this opportunity should be available to all young people.

There are many reviews, reports and pieces of research that have demonstrated the benefits of this approach for both young people in detention and improving community safety, some of which are discussed at Appendix 2 in relation to overseas approaches to youth detention.

In the Review Team’s assessment, Murrumbidgee School is ready to support such opportunities, and there would be great benefit in Bimberi and Murrumbidgee School working pro-actively to enhance opportunities for detained young people to participate in community-based education, training and employment activities.

Finding 71:

Most detained young people are not being given the opportunity to leave the Centre for the purposes of education, training and employment. Such opportunities are likely to contribute to reducing recidivism and improve community safety.

4.2.5 Transitional support from education

Murrumbidgee School seeks to support young people transitioning from Bimberi back into the community, including through the work of two Transition Officers (only one of these roles was permanent at the time of writing). These officers support a young person for around 6 months after their release from detention. This support includes assisting them transition to education and training opportunities in the community, including mainstream school or flexible education opportunities such as CIT (Yurana Centre), Muliyan (discussed below), or the non-government Galilee School (operated by Communities at Work).

The Review Team was impressed by the success this approach, including hearing of at least one young person who had successfully completed their qualifications at CIT after leaving Bimberi, due in part to the support of a Murrumbidgee School Transitions Officer (as well as the in-reach work of CIT in Bimberi). The Review Team also observed a Transitions Officer supporting a young person before the Warrumbul Circle Sentencing Court, which included assisting the court by providing background to the young person’s engagement with education and training at Murrumbidgee School.

However, these efforts are undermined by resource constraints. These two Transition Officers are supporting approximately 13 young people each, to maintain education and training connections after leaving Bimberi.

Finding 72:

The Murrumbidgee School provides critical support to young people for their transition from Bimberi to education, training and employment in the community on release, but more resources are necessary.

4.2.6 Young people already engaged with Flexible Education

Another positive practice identified by the Review Team was the support provided by ACT Education’s Flexible Education team to students already enrolled in their community program, who then enter Bimberi. This was additional to the usual support provided by Murrumbidgee School’s Transitions Officers.

The Flexible Education area of the Education Directorate delivers education to 30 students from across Canberra at the Muliyan program, based in Woden. There is a panel which determines which young people will benefit from the program, which typically accommodates 30 students in years 9 and 10 (15 students in each year). The program often has a mix of students experiencing barriers to maintaining education in a mainstream setting.

In 2023, 6 young people who were already enrolled in Muliyan were detained in Bimberi, and at least a further 3 in 2024. Staff from Muliyan continued to engage with those young people while at Bimberi, particularly through engagement of the program's Youth Worker, who ensured they were immediately reconnected with Muliyan on release.

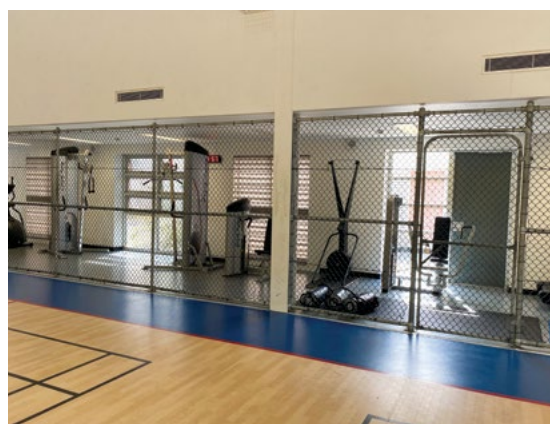
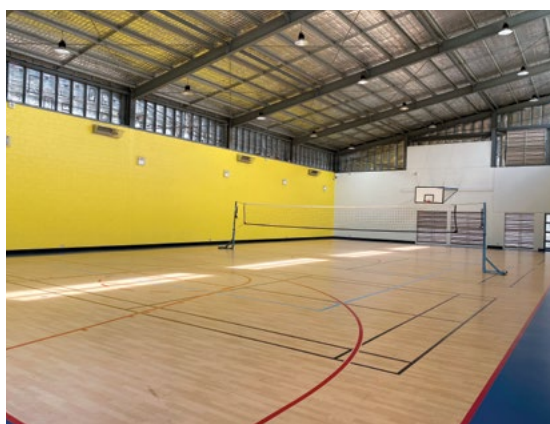
Any delay between release and attempts made to reconnect with education can undermine a young person's return to education. The Review Team considers that students of Muliyan were in a much better position to re-engage with education on release from Bimberi, compared to young people transitioning back to a mainstream school, particularly as it was likely they had disengaged from that setting prior to their period of detention. As one staff member put it – 'they were released from Bimberi on Wednesday, and back at Muliyan on Thursday.'

By way of example, the Muliyan Youth Worker regularly visited a student while he was detained in Bimberi, and facilitated a job interview for him for a part-time position. The job interview was conducted in the visits area of Bimberi. The young person won the position and on release from Bimberi worked in the position while also studying at Muliyan. That young person later secured an apprenticeship after completing year 10.

The Review Team suggests that the work of the Murrumbidgee School Transition Officers and Muliyan's support to its students in Bimberi provide a foundation to better support young people at Bimberi, and after they leave. Opportunities to enhance this work by the ACT Government requires further investment in Murrumbidgee School, to achieve a more coordinated approach to throughcare, as discussed at [5.3.5](#).

4.3 Recreation and activities

Photos 14 & 15: Gym facilities at Bimberi



Source: OICS (2024)

The relevant OICS Review Standard is that detained young people have daily opportunities for physical and recreational activity, as well as a regular structured sport and recreation program.

Bimberi’s recreation services and activities for after school hours, on weekends and in school holidays are coordinated primarily by the Programs and Services Manager and the Sport and Recreation Officer. The Centre also engages services to provide activities such as yoga during school hours.

The provision of therapeutic and other programs is discussed at [5.4](#).

While Bimberi provides a range of recreational facilities including a pool, gym and oval, the Review Team heard that access to these facilities could be improved. Restrictions on young people mixing, and the imposition of SMDs and segregation directions can limit access to these activities. A different approach to risk could see recreational services delivered more often, and in a different format. For example, games of touch football involve multiple young people, rather than two young people kicking a football to each other on the oval. The Review Team notes that historically touch football games involving young people and Youth Detention Officers were included in recreational activities at Bimberi.

Finding 73:

Bimberi’s inappropriate approach to risk assessment is preventing young people mixing more for recreation and other activities.



CHAPTER 5

Rehabilitation and preparation for release



5. Rehabilitation and preparation for release

5.1 Contact with the outside world

A matter of deep and ongoing concern to the Review Team is that the default position at Bimberi is that young people are not allowed to hug or touch their family and friends when they visit them, a measure introduced during the COVID-19 pandemic but now justified on safety and security grounds. This is discussed below.

Overall, the Review Team found that many staff at Bimberi encourage detained young people to maintain or re-establish positive relationships with family and friends and recognise the benefits this has on their rehabilitation and reintegration. In the wake of the COVID-19 pandemic, new opportunities for contact, such as audio-visual calls, have become possible.

Bimberi's Family Engagement Officer role is responsible for arranging contact between detained young people and important people in their life, and keeping families informed. This is an Aboriginal-identified position, though the position-holder works with all detained young people. Young people spoke highly of the work of the Family Engagement Officer, as did a family member of a detained young person.

Unfortunately, the Review Team found the restriction on physical contact at visits undermined the Centre's commitment to these goals and was having a significantly negative impact on the ability of detained young people to maintain and rebuild positive relationships. This was one of the most pressing and concerning issues identified by the Review Team.

5.1.1 Visits

Detained young people are entitled to at least one visit of one hour per week from a family member or significant person.¹¹³ Visit times are available four days a week, including weekends and evenings.

In response to the COVID-19 pandemic, Bimberi changed the operation of contact visits and the layout of the visits space to ensure physical distancing. Two tables were placed across from each other with young people to sit one side and visitors on the other side, making it physically impossible to touch without significant reaching. Access to outdoor play equipment for younger visitors was also removed. These changes have continued, for entirely different reasons, after the risk of the pandemic dissipated.

The *Practice Guideline: Visits – conditions, monitoring and record keeping* (undated but released during the pandemic) notes '[d]ue to the COVID-19 pandemic, Bimberi visit procedures have been temporarily amended':

These visits will take place under direct observation of staff. This type of visit will occur in the open communal area where strict conditions and table settings have been implemented to ensure social distancing and no physical contact (i.e. handshake, hugs, kissing etc) conditions apply.

¹¹³ *Children and Young People Act 2008* s 177(2).

This is reinforced in the *Practice Guideline – Visits – contact for a young person* (undated), which states that at all times visitors must ‘not engage in physical contact’. This Guideline also requires staff to monitor conversations for offensive language.

Photo 16: Visits area



Source: OICS (2024)

The Review Team was told that in exceptional circumstances (such as a young person experiencing grief or trauma) management would permit family members to hug a detained young person.

These restrictions were introduced in response to COVID-19, but have been maintained despite the reduced risk posed by the virus, and the reality that very few restrictions currently remain in the community (and no public health directions in relation to youth detention). CSD told the Review Team that the rationale was no longer on health grounds but had changed to being on safety and security grounds, to prevent the introduction of contraband in the Centre. CSD have not provided the Review Team with any evidence of contraband entering the Centre either historically or immediately prior to the COVID-19 restrictions being introduced.

The current restrictive practices in relation to visits are completely unacceptable and potentially unlawful. They do not align with the relevant 2018 Policy and Procedures in force under legislation.¹¹⁴ It is implicit in the 2018 policy that physical contact will be permitted at visits unless an individualised assessment is undertaken based on the consideration of relevant factors being:

- a) security and safety of all young people, visitors and staff
- b) health and wellbeing of young people, visitors and staff

¹¹⁴ Children and Young People (Visits, Phone Calls and Correspondence) Policy and Procedures 2018 (No 1).

As discussed at 2.5.5, it is unsatisfactory that Practice Guidelines at Bimberi are inconsistent with notified policies and procedures, and should be resolved as a priority.

Aboriginal and Torres Strait Islander young people are also disproportionately represented in Bimberi and as noted already in this Report, their detention often overlaps with involvement with care and protection services. In a joint letter from oversight agencies (including OICS) to CSD about the importance of physical contact at visits, the ACT Aboriginal and Torres Strait Islander Children's Commissioner Vanessa Turnbull-Roberts provided the following cultural perspective:

Physical contact, whether it be through hugs, hand holding, or fostering deeper connections, is of paramount importance for Aboriginal and Torres Strait Islander children and young people. These forms of physical and emotional touch not only provide comfort and reassurance, but also play a significant role in healing past traumas and building resilience. For individuals who have often experienced a sense of disconnection and isolation due to historical injustices and ongoing systemic inequalities, these moments of contact can be transformative.

Young people told the Review Team that being unable to have physical contact with loved ones at visits had a significant impact on them. For example, one young person told the Review Team that he had not been hugged by a family member in 2 years. Many others said they opt for 'boxed visits' (in the non-contact booth with a pane of glass between the young person and their visitor), because they feel there is more privacy without a Youth Detention Officer present listening to their conversation.

Compounding these issues, the Review Team found the non-contact visit booths on the young people's side to have significant graffiti including young people's names and dates (dating back a number of years).

Finding 74:

The condition of booths used for non-contact visitors are unacceptable.

Members of the Review Team recently visited the nearby Riverina Youth Justice Centre in New South Wales. Several features of its visits policies and procedures differed from Bimberi. Young people are permitted physical contact with family at the start and end of a visit. The Centre has also recently changed its visits policy to allow visits during daylight hours on all days of the week. As families may travel long distances to visit, generally one detained young person at a time has a visit, with the full inside and outside visits space open to them and their family. Family pets may also visit.

A further benefit provided by the Centre is reimbursement of accommodation and transport costs for family members every six weeks.

The risks of non-contact

The need for detained young people in institutional environments to maintain confidential contact with family, including supporting families to take an active role in monitoring children's safety across institutions, is also emphasised by the findings of several inquiries including the *Royal Commission into Institutional Responses to Child Sexual Abuse* (National Royal Commission) and the more recent Tasmanian Royal Commission.¹¹⁵

A child safe institution observes Article 18 of the UNCRC [United Nations Convention on the Rights of the Child] which states that parents, carers or significant others with caring responsibilities have the primary responsibility for the upbringing and development of their child. Families and caregivers are engaged with the child safe institution's practices and are involved in decisions affecting their children. Families and caregivers are recognised as playing an important role in monitoring children's wellbeing and helping children to disclose any complaints.¹¹⁶

Confidentiality of communication is particularly critical for people in institutional settings, including removing 'barriers to children having confidential, sensitive conversations with trusted adults'.¹¹⁷ The National Royal Commission found factors that increase the risk of child abuse in youth detention facilities include: 'isolation, lack of access to a trusted adult and disconnection of young people from family, friends, community and culture'.¹¹⁸ Recommendation 15.4 of the National Royal Commission included that:

As part of efforts to mitigate risks of child sexual abuse in the physical environment of youth detention, state and territory governments should review legislation, policy and procedures to ensure... frameworks take into account the importance of children having access to trusted adults, including family, friends and community, in the prevention and disclosure of child sexual abuse and provide for maximum contact between children and trusted adults through visitation, and use of the telephone and audio-visual technology.

¹¹⁵ *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017), *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse* (Final Report, August 2023) vol 6 420; vol 5 (Book 3) 143.

¹¹⁶ *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017), vol 6 419.

¹¹⁷ See for example *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017), vol 15 89.

¹¹⁸ *Royal Commission into Institutional Responses to Child Sexual Abuse* (Final Report, December 2017) vol 15, 46-49, 89.

Access to animals in detention

Once a week one of the Murrumbidgee School staff members brings their dog into Bimberi, and young people, Bimberi and Murrumbidgee School staff told the Review Team the positive impact of the presence of that animal. A mother of a detained young person spoke about her child's affinity for animals and how it would have a significant therapeutic value to him to be around animals.

Riverina Youth Justice Centre in New South Wales allows families to bring their pets to visits.

Various adult correctional services (for example in NSW and SA) operate a range of animal programs, many which have vocational and training components. For example, RSPCA NSW and Corrective Services NSW operate a joint dog rehabilitation program. A detained person selected for participation in the Program completes nationally recognised qualifications to train, exercise and care for dogs rescued by the RSPCA NSW.¹¹⁹ Similar programs have been introduced in Western Australia¹²⁰ and Queensland.¹²¹ Florida operates a specific program for young people in detention.¹²²

Further investment to improve detection of contraband

The Review Team strongly supports the introduction of a body scanner as a means to prevent the introduction of contraband into the Centre, as discussed at 2.4.1. However, the lack of a scanner should not prevent a return to true 'contact visits' that existed prior to COVID-19, as contemplated in the *Children and Young People (Visits, Phone Calls and Correspondence) Policy and Procedures 2018 (No 1)*. In fact, in emphasising the importance of maintaining contact between detained young people and their family, that Policy articulates many of the issues identified with the current practice.

Steps taken to date to raise concerns over current approach to visits

Throughout 2023 and 2024 oversight bodies raised concerns with CSD about the disproportionate impact of no contact during visits on young people. In April 2024, the Executive Branch Manager wrote to oversight bodies to suggest some changes were being considered to the current contact visits practice. While some minor changes were made to the conduct of visits, such as young people being allowed physical contact on a case by case basis on application, a presumption remained in place that a young person would not be able to have physical contact with their visitors, contrary to the notified policy.

119 'Animal care and rehab', *Corrective Services NSW* (website, 11 May 2023) <<https://correctiveservices.dcj.nsw.gov.au/reducing-re-offending/initiatives-to-support-offenders/employment-and-training/animal-care-and-rehab.html>> and 'RSPCA NSW-CSNSW Dog Rehabilitation Program', *Corrective Services NSW* (website, 14 June 2023) <<https://correctiveservices.dcj.nsw.gov.au/reducing-re-offending/initiatives-to-support-offenders/employment-and-training/animal-care-and-rehab/dog-rehabilitation-program.html>>

120 'Rescue dogs prison foster program launched', *Department of Justice (WA)* (website, 1 November 2021) <<https://www.wa.gov.au/government/announcements/rescue-dogs-prison-foster-program-launched>>

121 Eliza Buzacott-Speer 'Cats behind bars' *ABC* (online, 20 February 2016) <<https://www.abc.net.au/news/2016-02-20/cats-behind-bars-brisbane-womens-correctional-centre/7093740>>

122 Laura T Coffey 'Teens in Florida correctional facilities train rescued dogs with behavioural issues, a program that started in prisons for adults and has expanded' *Bestfriends* (online, 2 July 2019) <<https://bestfriends.org/stories/best-friends-magazine/program-helps-juvenile-offenders-and-shelter-dogs-get-second-chance>>

These concerns culminated in the Custodial Inspector; Public Advocate; Discrimination, Health Services, and Disability and Community Services Commissioner; Aboriginal and Torres Strait Islander Children and Young People Commissioner; and Official Visitors writing jointly to the Executive Branch Manager, Children Youth and Families in May 2024. In response, CSD suggested it is making incremental changes to the policy. However, the Review Team considers that these issues remain largely unresolved. In August 2024, the Legislative Assembly Select Committee on Estimates 2024–2025 recommended that Bimberi review its policy on physical distancing during visits.¹²³

Finding 75:

The current practice which prevents physical contact at visits disproportionately limits the rights of detained young people and their visitors, and is having a detrimental impact on both the mental health of detained young people and their ability to maintain and rebuild family connection.

Finding 76:

Young people would benefit from greater access to animals for therapeutic reasons.

Recommendation 14:

Bimberi reinstate the practice that all young people are entitled to physical contact with visitors, unless an individualised risk assessment has been undertaken, which properly balances all relevant factors and gives proper consideration to human rights.

Video visits

In a positive development precipitated by the COVID-19 pandemic, Bimberi’s *Practice Guideline: Visits – conditions, monitoring and record keeping* now provides for video visits to be booked. Video visits can take place on any of the screens throughout the Centre, but will be booked on a specific screen on the Appointment Booking Sheet.

Staff are to enter the room with the screen and to commence the visit and ensure that the other party joins the meeting before leaving the room. Staff can ask the other party to show photo identification if there are concerns that a non-approved person has joined the visit.

5.1.2 Phone calls

The Review Team was pleased to find the recommendation from Healthy Centre Review 2020 relating to phone calls was fully implemented. Bimberi now provide 20 free calls per week (previously it was four, with additional calls part of the incentive scheme).

123 Select Committee on Estimates 2024–2025, ACT Legislative Assembly, *Inquiry into the Appropriation Bill 2024–2025 and Appropriation (Office of the Legislative Assembly) Bill 2024–2025* (Report, August 2024) 105.

Some young people told the Review Team that they felt that 20 timed 10-minute phone calls per week was not enough to keep in contact with friends and family. One young person who did not receive any family visits told us he relied on phone contact, and found it frustrating to have to have calls limited to 10 minutes, and then have to wait 30 minutes between calls due to the phone system.

Finding 77:

The 10 minute limit on phone calls combined with the requirement to wait 30 minutes between calls can impact the quality of phone contact between young people and their families and friends.

As discussed at [3.2.4](#), the Review Team is concerned about the ability of young people to speak to family members in languages other than English.

Photo 17: Phone booth in accommodation unit at Bimberi



Source: OICS (2024)

Photo 18: An AVL facility at Bimberi used for court attendance



Source: OICS 2024

5.1.3 Contact with lawyers and remote court attendance

Detained young people must be provided with reasonable opportunities, time and facilities to be visited by, and to communicate in private, with their legal representatives.

Throughout the course of the Review, the Review Team spoke to staff from the Aboriginal Legal Service and Legal Aid ACT, including to ascertain their views on the findings of OICS's Healthy Prison Review 2020 that young people had experienced difficulties speaking to lawyers, particularly before and after court attendances, by audio-visual links. Similarly, the Review Team sought their feedback on the findings and recommendations in the OICS 2023 NPM Isolation Review regarding young people not having confidential communication with their lawyers in an appropriate setting.

Overall, the Review Team was left with an impression that improvements have been made. The Review Team was told that Bimberi has resolved many of the problematic practices and policies it adopted in response to COVID-19, such as young people not being transferred to court, and ad hoc conversations with lawyers via telephones. For expected court appearances, lawyers told the Review that they are able to conference with their clients well in advance, either in person at Bimberi or via pre-booked AVL. Bimberi staff have also been helpful in facilitating contact via phone if necessary.

However, these improvements are in stark contrast to the experiences observed by the Review Team while on site, when CTU declined to transfer several young people to the court for in-person discussions with lawyers prior to their first bail application for operational reasons. Those detained young people attended court from a small room in the Coree unit. This is discussed at [2.2.4](#) including relevant findings and recommendations.

Further, this incident illustrated that the fundamental importance of confidentiality in communications between lawyers and their clients is not embedded in Bimberi. Phone calls between young people and their lawyers were facilitated in an open space at the entrance to the client services building with Youth Detention Officers able to hear the conversation. As noted at [2.2.4](#) above, this underlines that more needs to be done at Bimberi to impress on all staff that any conversation between a young person and their lawyer is confidential. This could occur through various means including staff training, visual cues, and informing young people of the right to confidentiality.

Email communication

At section [4.2.3](#), this Review reiterates the need for internet access in education. The Review Team considers that internet access would also assist young people instruct their lawyers while at Bimberi.

Currently, detained young people do not have access to email communication at Bimberi. In contrast, at AMC, lawyers are able to communicate with adults through confidential emails, which are 'whitelisted' meaning the content is not reviewed by detaining authorities. The Review Team understands this is particularly important for lawyers to share electronic documentation and evidence with their clients. Lawyers told the review that access to justice for young people at Bimberi would be improved if they were able to share evidence via email in the same way.

A further issue that the introduction of email communication could address is Bimberi not having a direct contact point for lawyers. The Support and Services Team are often able facilitate discussion between a young person and their lawyer, but if a lawyer has to call into the Centre 'cold' this can lead to delays in speaking to the young person.

Whitelisted email addresses for Aboriginal Legal Services or Legal Aid would improve such communication between detained young people and specific lawyers, rather than having to rely on the Support and Services Team or wait for a new lawyer's phone number to be approved.

Finding 78:

Young people at Bimberi would be able to better instruct their lawyers if they had access to email communication, including via their lawyer's individual email addresses.

5.2 Case management

5.2.1 Role of case managers

The CYPS division within CSD encompasses both child protection and youth justice services including Bimberi. Since 2015 CYPS had operated a 'single Case Manager' model so that young people who were under care and protection orders would retain the same Case Manager if they subsequently came into contact with the youth justice system (for example, being remanded in custody). In the five years from 1 July 2016 to 30 June 2021, 61% of young people under youth justice supervision, either in the community or in Bimberi, were also involved in the child protection system. This is the second highest proportion behind the Northern Territory. For Aboriginal and Torres Strait Islander young people in the ACT that figure is 69%.¹²⁴

However, during the review period, CYPS reverted back to a dual Case Manager approach as part of broader youth justice reforms, and to ensure Case Managers have specific youth justice expertise. A young person who is in the care and protection system who is remanded in Bimberi will now have two Case Managers. CSD informed the Review that this change in approach would likely mean Case Managers would be onsite for some of their time at Bimberi.

It is too early to assess the impact of this change.

5.2.2 Transfer to the Alexander Maconochie Centre

Young people who have been charged or found guilty of an offence that occurred prior to their 18th birthday can remain at Bimberi up until they turn 21 years old. The director-general of CSD may direct that a young person between the ages of 18 and 21 years be transferred to the AMC if they are satisfied that the transfer is in the best interest of the detained young person or other detained young people.

¹²⁴ Australian Institute of Health and Welfare, *Young people under youth justice supervision and in child protection 2020–21* (2 December 2022), data table S2.

The Review Team noted proactive engagement of the Bimberi Support and Services Team, Murrumbidgee School staff, and JHS in relation to the potential transfer of a young person to the AMC including seeking linkages with relevant staff at the AMC. Nonetheless, while Bimberi generally informs the PACYPC of potential transfers of young people to AMC, given the importance of having an independent advocate involved, the Review Team repeats the suggestion made in OICS Healthy Centre Review 2020, that consultation with the PACYPC should be a requirement under the CYP Act. Similarly, there should be a statutory requirement for Bimberi to consult the Aboriginal and Torres Strait Islander Children and Young People Commissioner if they are considering transferring an Aboriginal and Torres Strait Islander detained young person.

Finding 79:

That there is currently no statutory requirement in the Children and Young People Act to consult the Public Advocate or Aboriginal and Torres Strait Islander Children and Young People Commissioner about potential transfer of detained young people from Bimberi to ACT's adult jail, the Alexander Maconochie Centre.

5.3 Reintegration planning and release

The Review Standard that detained young people are helped to prepare for release through a whole of centre approach was found to be partially met. The Review Team acknowledges the challenges of reintegration planning when the vast majority of detained young people are on remand for a short time. However, there is room for improvement in this area.

5.3.1 Meetings held to assist with transitional planning

Various mechanisms exist for the relevant services to plan a young person's transition from Bimberi into the community. This includes the Client Services Meeting, Intensive Client Management Group meeting and the Care Team meeting.

The Client Services Meeting is a weekly meeting where individual detained young persons' progress in Bimberi is reviewed, attended by Case Managers and staff from CSD, FMH, JHS and Murrumbidgee School. The meeting does not include CYPS agencies (eg those involved with a detained young person because they are in the care of CYPS), as these agencies attend the young person's Care Team meeting. The agenda for the meeting is to identify collaborative responses to all detained young people as needed, as well as specific discussion of those recently admitted.

OICS's Healthy Centre Review 2020 identified deficiencies in the conduct of these meetings including that they lacked structure and accountability. In response to OICS's recommendations, CSD undertook an evaluation of the Client Services Meeting, completed in 2023. That Review consulted with stakeholders including CYPS Case Managers, FMHS, Murrumbidgee School, and Bimberi staff. The Review made various recommendations about the terms of reference, information sharing and conduct of the meetings. A new terms of reference was drafted, to be reviewed periodically with all stakeholders.

The Review Team observed an Intensive Client Management Group meeting, which is a relatively new meeting for Bimberi, based on a similar approach at AMC. It provides a forum for CSD and Health to work together on providing support to clients with complex needs. Its purpose is to ensure collaborative decision making. The meetings have an agreed terms of reference, are scheduled fortnightly and can also be held on an ad hoc basis if needed. The meeting is usually chaired by CSD (Executive Branch Manager, Centre Manager or Principal Practitioner) and a shared Care Plan is developed to be kept on both CYRIS and CHS' document management system (DHR). The meeting observed by the Review Team also discussed broader whole of Centre issues, such as supporting young people impacted by grief.

The Review Team considers that the Client Services Meeting and Intensive Client Management Group are both improving collaboration and shared decision making across and between the Directorates, creating opportunities for comprehensive thinking and planning for individual young people. The Client Services Meetings have improved significantly since those observed in 2020.

Finding 80:

The recommendations and findings of Healthy Centre Review 2020 regarding improvements to the Client Services meeting have been implemented.

The third meeting of relevance is the Care Team meeting, which was not observed by the Review Team. Those are relevant only for detained young people who are also in the care and protection system, and encompass all relevant people in their lives including their carer and support services and ideally the young person. They are usually chaired by the young person's Case Manager (CYPS) and the goal is to talk about what the young person needs, short term and long term plans for their time in care and to share relevant information.

A stakeholder suggested there is a lack of clarity and accountability on planning for transition in these meetings, exacerbated by a lack of urgency in Care Team meetings to finalise a clear plan with responsible entities prior to release. This is offset somewhat by the effectiveness of the Client Services meetings, but these do not include all of the relevant organisations in the community that will support a young person in the care of CYPS.

It was suggested to the Review that ensuring there is a clear framework to be applied in all Care Team meetings, which requires Case Managers to develop transition plans as a priority with clearly defined responsibilities and timeframes would enhance accountability and outcomes. The Review Team agrees that it is in the community's interest that young people are supported on release from Bimberi. Transition plans must be prioritised in light of the high numbers of young people on remand and the possibility they could be released from Bimberi at any time.

The Review Team understands that the revised case management arrangements mean that for young people subject to care and protection orders, two Case Managers will now attend the Case Team meeting (eg both their Youth Justice Case Manager and Care and Protection Case Manager). It is important that there is therefore clarity on whose role it is to ensure accountability for actions arising from these meetings.

Recommendation 15:

The Community Services Directorate should ensure there is a clear framework to prioritise the development of transition plans, whether through the Care Team meeting or other forums. There should be clear accountability measures.

5.3.2 Sharing of information for the purposes of presentence reports

One aspect of the revised terms of reference for the Client Services meeting concerned the use of information discussed and shared in the meeting. The Review Team understands these meetings to be primarily about sharing information to be used for the therapeutic benefit of detained young people. However, the review of the Client Services Meeting contemplates this information being used in pre-sentence reports. These are reports prepared by a young person's Case Manager to inform the Court's decision as to the sentence a young person found guilty should receive:

It was also raised that information provided in this forum would often be used to inform Court reports (such as Pre-Sentence reports) which increases the need for effective record keeping.

The Review Team suggests these discussions may be inconsistent with attendee's privacy obligations and create perceived or actual conflicts of interest. For example, information shared for the purposes of therapeutic supports should not be used for the entirely different purpose of determining a sentence.

Finding 81:

The current terms of reference and practice for the Client Services meeting risk conflating therapeutic interventions and information sharing with risk assessment for pre-sentence reports for the Childrens Court.

5.3.3 Bendora Transition Unit

Bimberi introduced the Bendora Transition Unit in response to the 2011 ACT Human Rights Commission's review of the youth justice system.¹²⁵ OICS's Healthy Centre Review 2020 noted that Bimberi ceased its use as a Transition Unit in 2016 when the numbers of detained young people decreased significantly. Healthy Centre Review 2020 found this reduced opportunities for young people to develop independence and life skills in Bimberi that assist them on release.

On this occasion, the Review Team found limited change since 2020. Bimberi now provide some additional life skill opportunities to young people in Bendora 1, including the ability to prepare their own dinners three nights a week in the unit, albeit with limited autonomy for ingredients and meal choices. Staff provide the young people with the ingredients which the Bimberi chefs will use for the other young people in the centre. Under the supervision of Youth Detention Officers, the young people in Bendora 1 are able to prepare the meal.

125 ACT Human Rights Commission, *The ACT Youth Justice System 2011* (Report, July 2011) 92.

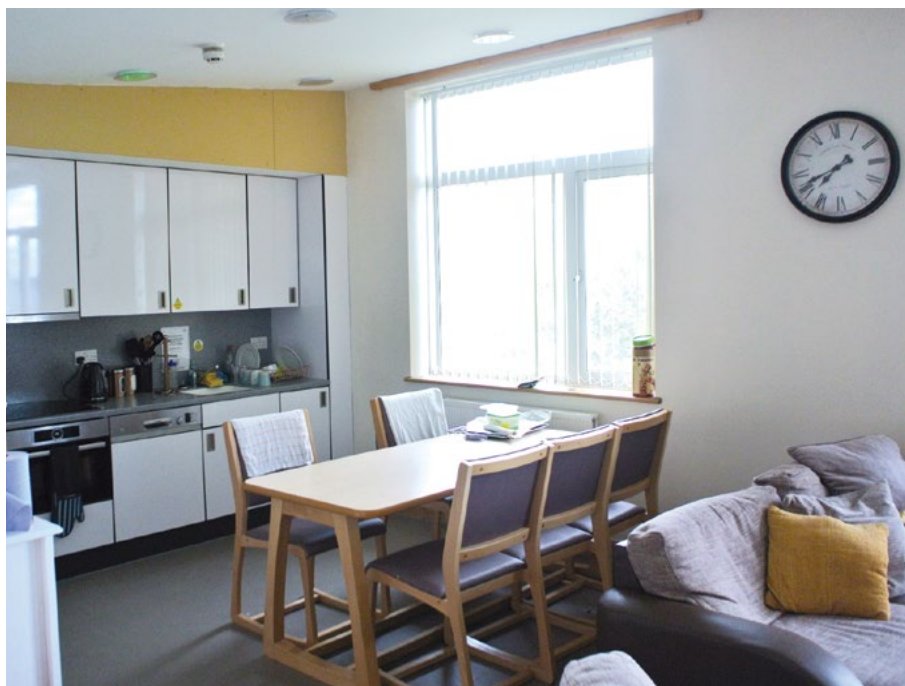
However, apart from this, the Review Team found the fridge and cupboards in the Bendora 1 kitchen to be empty, with no food items, cooking equipment or utensils available for young people to prepare other meals or snacks. This is a missed opportunity where young people could be learning the skills to plan a weekly menu, develop shopping lists and learn to budget for purchasing groceries. These are essential life skills that all young people in the Centre should be encouraged to learn by doing wherever possible.

Researchers, Dwyer and Oostermeijer note that kitchen and dining areas serve as an important focus in best-practice youth detention centres in Spain, Norway and the Netherlands, providing opportunities for informal activities between staff and young people. Many units, particularly those encouraging autonomy, have full domestic kitchens.¹²⁶

Prior to 2016, Bimberi provided young people in Bendora other life skill and transitional opportunities such as leaving the centre regularly.¹²⁷ The ACT Human Rights Commission's original suggestion also encompassed a systemic approach to a living skills program in this unit:

The Commission supports the proposal for a 'transition unit' where young people will have the opportunity to maintain the unit as if it were their own home, as they prepare to leave Bimberi and move to independent living, and recommends a more systematic approach to living skills programs at Bimberi.¹²⁸

Photo 19: Comparison: What Bendora Transition Unit might look like?
Transition Unit, Barton Moss Secure Care Centre, United Kingdom



Source: Dwyer (2020)

126 M Dwyer and S Oostermeijer, A Model of the Design of Youth Custodial Facilities: Key Characteristics to Promote Effective Treatment; in D Moran et al (eds) *The Palgrave Handbook of Prison Design* (Palgrave Macmillan, Cham, 2023) 339, 363.

127 Select Committee on Estimates, ACT Legislative Assembly, Canberra, 21 June 2013, 618 (Greg Corben) and Standing Committee on Education, Training and Youth Affairs, ACT Legislative Assembly, Canberra, 13 November 2014, 23 (Mark Collis).

128 ACT Human Rights Commission, *The ACT Youth Justice System 2011* (Report, July 2011) 14.

5.3.4 Transition to education or work in the community

While much more could be done to support young people transitioning from Bimberi to the community, the Review Team identified the Murrumbidgee School and Flexible Education's approach to transition of young people from Bimberi to the community as positive practice. This is discussed at 4.2.

This work would be further enhanced by the ACT Government providing additional funding to both Murrumbidgee School (for young people exiting Bimberi) and Flexible Education (for all vulnerable young people in the community). Additional resources would mean Murrumbidgee School teachers and Transition Officers can continue working with young people in the community after they have exited Bimberi, including transporting them to school and supporting them in their new educational environment. Ideally that would be at specialised facilities like Muliyan or a non-government agency, noting the challenges of mainstream schools for these young people. At a minimum, more funding would allow Murrumbidgee School staff to work with young people in a mainstream school.

Further, while outside the terms of this review, the Review Team observed the current capacity constraints on Muliyan. If the ACT Government provided further funding for this program, Flexible Education could expand its important work to even more vulnerable young people. This would be consistent with the ACT Government's commitment to justice reinvestment.¹²⁹

Nonetheless, this work provides a sound foundation on which to build to develop a comprehensive throughcare model at Bimberi.

5.3.5 Throughcare

Throughcare is an essential mechanism to support detained young people 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.¹³⁰ Importantly, it includes continued support after release.

Various attempts have been made at a comprehensive throughcare program at Bimberi. The ACT Blueprint for Youth Justice Taskforce identified throughcare as one of the focus areas that should be considered for further action.¹³¹ The 2020 Parliamentary and Governing Agreement for the 10th ACT Legislative Assembly made a commitment to 'implement a Youth Justice Throughcare program to be delivered in partnership with community organisations'.¹³² In December 2022 CSD held a community forum to discuss throughcare at Bimberi,¹³³ and Northside Community Services undertook a trial previously. Reflecting this, recommendation 26 of OICS Healthy Centre Review 2020 was that CSD take urgent action to implement a systemic program of throughcare at Bimberi.

129 'Justice Reinvestment', ACT Justice and Community Safety Directorate (online) <<https://www.justice.act.gov.au/justice-programs-and-initiatives/reducing-recidivism/building-communities-not-prisons>> (accessed September 2024).

130 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/>.

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

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

133 ACT Community Services Directorate, *Annual Report 2022–23* (Report, 2023) 157.

Some aspects of throughcare are already met by Case Managers and the Education Transitions Officers, albeit in an ad hoc way. The Review Team considers that the most effective form of throughcare currently undertaken is provided by the Education Directorate, through both the Murrumbidgee School and for students previously enrolled at Muliyen.

Despite countless reviews, there remains a lack of comprehensive throughcare at Bimberi.

Finding 82:

Throughcare has been identified by the ACT Government, Community Services Directorate and oversight agencies as an area for improvement, but there has been little change in the experiences of young people leaving Bimberi.

In the 2023–24 budget, the ACT Government provided CSD one-off funding of \$200,000 for the purposes of ‘developing a Throughcare program for youth justice’. A consultant was engaged in the 2023–24 financial year to do this work, and spoke with various stakeholders including Review Team members.

The Review Team has not made findings and recommendations given a consultant’s review has been commissioned. The Review Team is eager to see the implementation of a comprehensive, well-funded, evidence-based throughcare approach.

Nonetheless, the Review Team notes that many of the issues detailed in this Report are relevant for effective throughcare programming being implemented in a comprehensive fashion, including:

- Inappropriate risk assessments across the Centre which prioritise physical safety and security over other considerations;
- Day leave generally only being approved for health appointments, and not to take up education, training and employment opportunities;
- A lack of clarity about the purpose and necessary outcomes of Care Team meetings.

In her research, Bjur notes that shared decision making about day leave and community-based activities for young people in detention may assist with improved transition planning:

There is inherent risk involved in giving young people the space to fail, and community perception about the purpose of youth detention can be a barrier to this approach. Media narratives and broader community perception about the appropriate response to youth offending are important contributors to political willingness to engage in approaches that carry perceived risk. In many locations, the risk is shared among stakeholders. For example, in Spain, a report is provided to the court every three months about the young person’s progress and a recommendation is made for the court’s approval when the centre assesses the young person as ready to safely leave the centre on day release. In Scotland, a parole board makes a decision about readiness for off-centre activities.¹³⁴

These issues should be considered in implementing a comprehensive throughcare model at Bimberi. It is imperative that critical work on implementing throughcare is a priority of government.

¹³⁴ Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022), 28.

5.4 Programs

Programs in a youth detention centre should be evidence-based, promote social reintegration and personal development, and in the case of sentenced young people, address behaviour which may contribute towards their offending. Programs must be flexible enough to meet the diverse profile and needs of young people. For a Centre like Bimberi, this requires a bespoke approach, given the demographic profile, fluctuations in numbers, and a differing lengths of stay.

The Review Team spoke to the Support and Services Team, Murrumbidgee School, JHS and a significant number of community-based organisations that provide programs and activities in Bimberi. A strength of the Centre is that staff across multiple teams are committed to providing young people a diverse range of programs. Many non-government service providers are passionate about working with young people, and several are doing so on a voluntary basis.

Despite these commitments, the Review Team found an ad hoc approach to identifying and implementing programs, particularly those delivered by external service providers. Previous reviews by OICS in 2020 and ACT Human Rights Commission in 2019 noted the lack of coordinated strategic approach to programs. The first report of the Jumbunna Centre’s review of over-representation in the ACT heard similar stakeholder reviews concerning justice programs generally including those aimed at young people:

Good programs are seen as coming and going, disappearing when they are de-funded or when government priorities shift, alongside a lack of clear direction more broadly.¹³⁵

Staff survey responses about programs (in answer to an open field after questions about working with young people)

- “There is a lack of programming for young people and little to no programs reducing the likelihood of young people re-offending.”
- “There does not appear to be many programs specifically targeted at offending behaviour.”
- “More external programs”
- “I would like to see more programs offered to YP [young people] that help them build self-esteem and resilience. The men’s link program that has been to Bimberi previously was beneficial to the young males residing and programs as such would be great.”

It remains unclear to the Review Team where lines of responsibility for programs fall, particularly between CSD, Education and JHS. For example:

- Several external service providers reported that visiting the Centre was initially due to a pre-existing relationship with a Bimberi staff member (rather than, for example, an expression of interest being put out to deliver a service).

135 Professor Chris Cunneen et al ‘ACT Government responses to the Australian Law Reform Commission’s Pathways to Justice Report recommendations’, *Independent Review into the Overrepresentation of First Nations People in the ACT Criminal Justice System* (First Report, August 2024), 32.

- Murrumbidgee School is the coordinating agency for several services that visit the Centre. However, some services or activities may be better characterized as activities or programs rather than school or vocational education such as yoga and personal training.
- One service provider told the Review that they approached Bimberi management to provide a weekly afterschool program, but were directed to engage with Murrumbidgee School instead.
- On the other hand, during the Review, Bimberi Support and Services Team was engaged in preliminary discussions with Winnunga about delivering a health promotion program (anti-vaping program).
- As discussed at 3.3.6, JHS has organised for The Junction to receive discharge note for some young people. However, JHS (not CSD or Murrumbidgee School) had considered engaging The Junction to provide health promotion and health education at Bimberi.

In isolation, these may not appear to be significant issues, and it is a positive that programs are being delivered at Bimberi. But when the Review Team considers these matters collectively, it concludes a more strategic approach is required.

Young people also reported gaps in activities and programs on weekends and during school holidays (a Bimberi responsibility). Satisfaction with the holiday program was relatively low.

The Review Team spoke to previously detained young people, who identified they would have benefited from programs that responded to the underlying drivers of the behaviour that led to their contact with the criminal legal system, and would give them tools to respond in future to potentially antisocial behaviour. Young people suggested anger management courses would be an example of such a program.

As discussed at section 1.6 of this report, CSD is responsible for youth justice policy and services, while JACS has responsibility for the wider justice system.

The Review Team notes that JACS funds a range of programs for adults in both the AMC and broader community, often as part of the ACT Government's commitment to reducing recidivism and implementing justice reinvestment, of which JACS has responsibility under the administrative arrangements. However, the Review Team did not see any evidence of JACS proactively looking for opportunities to fund programs at Bimberi, or liaising with CSD about adapting existing programs provided to adults (such as those at the AMC). The Review Team considers that justice reinvestment programs aimed at children, young people and their families have the potential to be extremely powerful and pay dividends in improving outcomes for young people and the community.

In response to this report, JACS noted that:

- The needs of young people and those of adults in the context of programs are different and programs for adults are not necessarily transferrable without expertise in youth justice being applied.
- However, JACS engages with CSD on program and service development through participation in commissioning processes such as Safe and Connected Youth and Child Youth and Families Services Program, and at a strategic level through the Commissioning Senior Officials Group. Justice agencies were active stakeholders in the development and implementation of the Blueprint for Youth Justice, and JACS will continue to provide input into the development of CSD led youth justice throughcare model and any future youth justice strategies, which provide the opportunity to identify areas for collaboration.

- While it is recognised expanding JACS funded initiatives, like Ngurrumbai [bail support program], to support youth would complement ongoing youth justice initiatives delivered by the CSD Youth Justice and Minimum Age of Criminal Responsibility (MACR) teams, this expansion would require additional resourcing for youth-specific expertise and supports.
- JACS does, however, recognise that there can be a connection between contact with the youth justice system and later contact with the criminal justice system as an adult. As such, JACS has on occasions in response to an identified need stepped into the program development space outside its normal responsibilities. This has, for example, included establishing and funding the Yurwan Ghuda program in 2024. Yurwan Ghuda is an On-Country trial program that commenced in February 2024 – to assist in addressing the over-representation of Aboriginal and Torres Strait Islander Young people by supporting 10–14 year olds who come into, or are at risk of coming into, contact with the criminal justice system with the opportunity to participate in On-Country activities

The Review Team concludes there is some positive practice that can be further developed. Young people were particularly enthusiastic about the personal trainer at Bimberi programs, reflecting the fact that many young people are focused on their fitness. Some Youth Detention Officers, and the Support and Services Team are responsive to young people's interest in this area, including introducing fitness challenges during school holidays.

The Bimberi Support and Services Team also demonstrated a clear commitment to improving the delivery of services. The Programs and Services Manager is attempting to develop an application and screening process for interested entities. Further, staff are seeking out new programs based on the changing needs of young people (for example, a road safe program). The Review Team found Bimberi Support and Services, Education and Health staff have a shared understanding about the needs of particular young people.

The Review Team acknowledges that the delivery of programs is complicated by operational factors – for example, imposed limits on mixing, meaning young people cannot all access one program together. This lack of mixing results in inefficiencies, such as the program being delivered multiple times, or some young people not participating. It is also a missed opportunity for young people to learn to engage with each other.

The ACT Government recently established the Therapeutic Support Panel, an expert panel to identify community supports for young people at risk of entering or already in the youth justice system. This could also support Bimberi, by strategically analysing the delivery of programs.

In her research, Bjur notes:

Models of youth detention that have been shown to reduce recidivism have many common features. There are internal, change-oriented elements such as evidence-based programming focussing on changing criminogenic behaviour, individualised therapeutic programs, the development of new skills and the opportunity to try out these new skills in a supportive way. There are also external elements, aimed at creating a safe and supportive network of adults in the young people's lives when they transition back to their communities. These include targeted community engagement, family therapy and progression through a service system with a gradual increase in trust and responsibility.¹³⁶

136 Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022), 6.

Effective programs at Bimberi must go beyond general programs provided to young people in the community. Given young people are provided education during school hours, Bimberi should focus on commissioning programs outside these hours, on weekends and during holidays. It is unrealistic (and unfair) for the government to expect community partners to provide such programs as part of existing general community funding or on a voluntary basis (as is often the case now). Rather, the ACT Government should provide Bimberi discrete funding and resources to identify and commission purpose designed programs for detained young people.

Therefore, the Review Team welcomes that the *RR25by25 and Beyond: A Justice Reinvestment Strategy for the ACT* released by the Attorney-General on 3 September 2024 identifies young people as an area of focus for this Strategy. JACS told the Review Team that the implementation of the Strategy will include a co-design process focused on developing a grant framework for new justice reinvestment initiatives. This work, led by JACS, has the potential to deliver improved programs and services for children and young people, although any outcomes from this process would need to be supported by CSD.

Recommendation 4:

The ACT Government develop and fund a cross-Directorate strategic approach to young people accessing programs and services while at Bimberi, linking with a comprehensive youth justice throughcare program.

Appendices



Appendices

Appendix 1: Review methodology

Under the *Custodial Inspector Act 2017* (CI Act), the office of the Inspector of Custodial Services (OICS) is required every three years to examine and review the Bimberi Youth Justice Centre. OICS undertakes these reviews applying its ACT Standards for Youth Detention Places. These Standards are based on the elements of a “healthy prison”, first articulated by the World Health Organisation and are broken into 4 pillars:

- Young people are held safely,
- All individuals are treated with respect and dignity as human beings,
- Young people are able to engage in purposeful activity, and
- Are provided rehabilitative care with a therapeutic focus and prepared for release.

These pillars draw on a range of international, national, and local sources.

Preparatory work for this review began in late 2023 when OICS commenced updating its ACT Standards for Places. Consultation on the standards occurred from January to April 2024 and, after incorporating stakeholder feedback, a final version was published on our website in April 2024.

In light of recent work by the Inspector’s office and other oversight bodies, subject to stakeholder feedback and issues requiring urgent attention, OICS focussed this review on Pillars 2 (Respect and Dignity) and 4 (Rehabilitation and Preparation for release).

Our methodology included interviews with detained young people, a staff survey, many bilateral meetings with a wide range of stakeholders and onsite observations.

We are grateful for the assistance of the Community Services Directorate (CSD), Justice Health Services (JHS) and ACT Corrective Services’ Court Transport Unit (CTU) in facilitating access to people, places and information.

Consultation with other oversight bodies

OICS is part of the ACT Bimberi Oversight Group which meets bi-monthly and has members from CSD, Murrumbidgee School, JHS and oversight agencies.

In addition to general discussions with other oversight agencies, the Review Team held a forum for oversight agencies in January 2024 to discuss this Review. We also received a written submission from the ACT Human Rights Commission.

Members of the Review Team also visited Bimberi in the leadup to the Review including observing a visit with one of the Official Visitors.

Data and information gathering

Data was requested from and provided by CSD, the Education Directorate and Canberra Health Services (CHS). Each fully assisted with all data requests, in a timely manner. The Review Team also met with senior management from CSD, CHS and Education Directorate responsible for services at Bimberi.

In June 2024, OICS was also provided access to CSD’s CYRIS database for the purposes of this review.

Community consultation

We held approximately 24 bilateral meetings with key stakeholders in the legal, academic and community sectors. We met with formerly detained young people and family members of currently and formerly detained young people.

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 Healthy Centre Review 2020 and based on discussions with the Community and Public Sector Union (CPSU) and union delegates. The survey was anonymous and only OICS could access the responses.

The survey was distributed electronically, with staff members being sent a link by email as well as posters put up around the Centre. Members of the Review Team also attended Youth Detention Officer training sessions to explain the Review and the survey opportunity to staff. The survey was open from 12 April 2024 to 2 July 2024, to provide the maximum opportunity for Bimberi staff members to complete it. Reminder emails were sent periodically.

The survey was sent to approximately 169 staff members, with 31 completing or partially completing the survey. This gave us a response rate of only 18%. A significant number of staff provided open text comments.

Engagement with detained young people

The Review Team spoke to young people a number of times during visits to Bimberi in May and June. These discussions were via formal consultation group sessions, without any Youth Detention Officers or other staff present, as well as ad hoc discussions as the Review Team walked around the Centre. Young people were also invited to complete a survey using digital tablets.

In this way, when the Review Team were onsite, all detained young people at Bimberi were given multiple opportunities to speak to us.

The review team

In addition to our four staff, OICS engaged three contractors with different areas of expertise to form the Review Team. The unique experience of these contractors critically shaped the findings and recommendations of this report. It was important to have expertise of an experienced public health and justice health physician to inform many aspects of the Review, particularly the provision of health services to detained young people. The cultural needs of Aboriginal and Torres Strait Islander young people is informed by the considerable experience of a team member who is a respected leader in the ACT Aboriginal and Torres Strait Islander community. The Review also benefited enormously from the perspective of a team member with lived experience of the ACT youth justice system, particularly given that experience pre-dated Bimberi.

The full team comprised of:

- Rebecca Minty, ACT Custodial Inspector
- Sean Costello, Deputy ACT Custodial Inspector (review director)
- Andreea Lachs – Detention Monitoring and Policy Advisor
- Pip Courtney-Bailey, Assistant ACT Custodial Inspector

- Dr Michael Levy AM – Clinical Consultant – Public Health Physician MB BS (Hons II) UNSW, MPH USyd, FAFPHM (RACP). Dr Levy is a Public Health Physician with national and international experience in detainee health, and is an international leader in the field of application of harm minimisation to the custodial environment. He has worked with the World Health Organization (WHO) and the European Committee for the Prevention of Torture, and has been an observer and presenter to the WHO Health in Prisons Program (European Regional Office). Dr Levy is an independent consultant in the field of public health across multiple Australian jurisdictions.
- Barbara Causon PSM – Under section 18(2) of the CI 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. The Review Team therefore benefited from the expertise of Barbara Causon, a Wiradjuri woman with family ties to the Riverina region of NSW, retired from Commonwealth Public Service after 34 years with over 20 years in the Senior Executive Service, working in various roles focused on national Aboriginal Affairs. Ms Causon chaired the Our Booris Our Way review into Aboriginal and Torres Strait Islander Children in the ACT Child Protection system. She also previously filled the role of Aboriginal and Torres Strait Islander Children and Young People Advocate. She has a strong interest in improving outcomes for Aboriginal young people.
- Jayke Fleury – Jayke brings to the Review Team lived experience of adult and youth detention both here in the ACT and other jurisdictions. He’s passionate about using his experience of incarceration and the criminal legal system to contribute to and advocate for meaningful change and reform in this space.

Onsite component

Most of the Review Team was onsite at Bimberi on 3 May 2024, and from 3 June to 7 June 2024. Our health expert was onsite on 3 May 2024. Members of the Review Team also observed an after-hours admission to Bimberi on the evening of Sunday 30 June 2024.

Evidence was gathered by the Review Team during:

- Bilateral meetings
- Inspections of spatial areas
- Attending morning briefing
- A tour of the Centre conducted by a detained young person
- Lunch with detained young people

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, detained young people’s opinions about the Centre.

Other site visits and observations

Members of the Review Team also visited Narrabundah and Franklin House that are operated by CSD as accommodation options for young people released from Bimberi, in order to better understand the context of 'preparation for release' and 'throughcare'. The Review Team were grateful to have an opportunity to observe the Warrumbul Circle Sentencing Court, a specialist Aboriginal and Torres Strait Islander sentencing court that is part of the ACT Children's Court.

Members of the Review Team also visited Riverina Youth Detention Centre in Wagga Wagga, one of six youth justice centres in NSW.

Appendix 2: International promising practice

In reviewing the relevant literature, researchers Dwyer and Oostermeijer suggest that the key design characteristics of successful youth detention centre are:

- Small-scale (eg smaller number of beds),
- Locally sited and integrated with the surrounding community, so as to maintain and strengthen a young person's social connections and support access to community resources. This can be measured by availability and accessibility of public transport to the centre.
- Designed to promote relationship and differentiated security,
- Comprising therapeutic design characteristics.¹³⁷

One model often considered to employ these principles is Diagrama, a non-government organisation that operates facilities for young people who have been sentenced (or remanded) to custody in Spain. Commencing this work in 1991, Diagrama now runs more than 35 centres for children remanded or sentenced to custody (capacity ranging from 12 to 100). One of our Review Team previously visited a few of the Diagrama centres in-person.

¹³⁷ M Dwyer and S Oostermeijer, A Model of the Design of Youth Custodial Facilities: Key Characteristics to Promote Effective Treatment; in D Moran et al (eds) *The Palgrave Handbook of Prison Design* (Palgrave Macmillan, Cham, 2023) 339, 345–350.

Photo 19: La Villa, a Diagrama facility near Alicante, Spain (taken in May 2019 by Review team member during site visit)



Diagrama is being considered by several Australian jurisdictions as providing clues to new models of care in Australia.¹³⁸ In preparing a report for the Northern Territory, the Diagrama Foundation described its rehabilitation-centric model as including:

- “All our staff work together to set consistent, clear and fair boundaries to help young people understand the positive and negative consequences of their behaviour. Young people are guided to earn increasing responsibility and autonomy such as opportunities to work, study and socialise in the community, taking responsibility for their behaviour. They may lose these privileges and then have to re-earn them: but they learn in a safe and controlled environment before they are released from our supervision.”
- Importance is placed on having “truly meaningful incentives for young people – time with families and in the community.”
- “Case management is supported by a multidisciplinary professional ‘Technical Team’ (including psychologists, social workers) who carry out a thorough assessment of each young person. Building on the positive relationships developed, the young person can be supported to acquire social and thinking skills like self-control, emotional intelligence, problem-solving, conflict management, and critical thinking.”

¹³⁸ Including Queensland, Western Australia and Northern Territory. See for example Diagrama, *A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory Report of Diagrama visit* (October 2019); Office of the Inspector of Custodial Services (Western Australia), *Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part one)* (Report, May 2023) 16–17; Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022) 28.

- “A full day of education and activities, every day... Supported by social educators, qualified teachers and vocational (VET) instructors there is vocational education and training as well as classes, daily sports, and constructive leisure activities – music, art, gardening, animal husbandry and cultural activities.”
- “As far as possible we make our centres feel like a normal environment with young people engaged in their decoration, upkeep, gardening; with everyday furniture rather than ‘prison’ furniture and a daily rhythm that is appropriate to the age of the young person – a normal 9:30 or 10:00pm bedtime. This provides young people with greater opportunities to learn and they go to bed tired and sleep better. We also have fewer problems caused by the frustration of boredom or loneliness.”
- “Where it’s appropriate, we support families to be fully involved in the young person’s individual programme. Where family issues are a contributing factor to negative behaviours, we work with families to develop the skills to support each other. Regular contact is encouraged – we take a flexible approach to visits and provide welcoming spaces where visitors can have some privacy.”
- There is a clear separation of therapeutic and security functions among staff. In the Diagrama model, the security staff “act as a last resort in incident management”, but “[a]s far as possible they stay in the background and are not responsible for young people’s day-to-day care”. The therapeutic functions are carried out by the Technical team, the Social Educators (“[q]ualified to degree level and guided by the Technical Team, they support young people throughout every aspect of their day”), and the Workers (“who support planning for release – housing, education, jobs... working alongside healthcare staff”).¹³⁹

Further, Queensland-based 2022 Churchill Fellow, Kate Bjur, visited some Diagrama centres in Spain, reporting on the manifold benefits of meaningful activities in centres:

Young people reported being glad they were never bored and were learning new skills.
Young people... have a sense of pride in themselves.¹⁴⁰

David McGuire, Chief Executive of Diagrama, told the Review Team that the profile of the workforce is key. Having qualified and professionalised staff reduces the need for the number of security staff. In Diagrama-run centres, for every 85 children in a centre, there are 8 security staff. Having a professionalised workforce also shifts the balance in decision-making processes, with McGuire observing from his visits to Australian youth detention facilities that security staff had the most power among staff.

Bjur describes how “approximately 30 to 50 percent of young people go off centre daily, and in the lower risk open centres, every young person is in the community every day, with or without a staff member.”¹⁴¹ McGuire explains that

“80 per cent of our kids in custody go outside to do all the activities outside the centre. And that is very important. It didn’t happen from one day to another. That happened after a period of time... and some of [the children] fail. Don’t think all of them will be perfect. We think that failing is part of the process for rehabilitation. We can [then] know why they are failing, and we can work with them.”

¹³⁹ Diagrama, *A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory Report of Diagrama visit* (October 2019).

¹⁴⁰ Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022) 28.

¹⁴¹ Ibid.

A 2019 University of Murcia study that found that of the 757 young people in a Diagrama centre in the Murcia region (on custody orders from 2011) who were tracked from their release until December 2017, only 13.6% (103) ended up in custody again.¹⁴²

Bjur suggests that, in one centre in 2022, there were 4000 instances of young people leaving the centre, with just four returning after curfew and none re-offending while on leave.¹⁴³

Use of force in Diagrama centres is uncommon; “in 2018, only 9.51% of young people across our centres were restrained and only 6.85% committed a serious incident beyond their first two months in custody.”¹⁴⁴

The [2023 Inspection report of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison](#) by the Western Australian Office of the Inspector of Custodial Services considered the Diagrama model, concluding that ‘such an approach in Western Australia would be innovative and revolutionary’.¹⁴⁵

Other models highlighted in the literature include the following, all of which prioritise dynamic/relational security over physical security and infrastructure:

- The Bjorgvin Youth Unit in Norway (8 beds, high security);
- Amsterdam small-scale facility (3 small-scale community integrated facilities which accommodate 8 young people each);¹⁴⁶
- Missouri model from the United States – small-scale, decentralized facilities focused on continuous case management, peer-led services and therapeutic environment. The facilities are designed to be ‘non-correctional’ in style, with ‘family atmosphere’.¹⁴⁷

142 Dr. Antonio Velandrino Nicolás, *Estudio Sobre La Eficacia De La Intervención Educativa Con Menores Sujetos A Medidas Judiciales en La Comunidad Autónoma De Murcia* (Report, 2019) as cited in Diagrama, *A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory* Report of Diagrama visit (October 2019) 10.

143 Kate Bjur, *The Donald Mackay Churchill Fellowship to Investigate Effective Responses to Youth Gangs for Use in Youth detention Centres* (Report, 2022) 28.

144 Diagrama, *A Blueprint for Change: Adapting the lessons of the Spanish Youth Justice System to the Northern Territory* Report of Diagrama visit (October 2019) 11.

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