



# LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

No. 99

## WRITTEN QUESTION

K McNamara to the Attorney-General, Hon Marie-Clare Boothby MLA:

### Questions for the Office of the Children's Commissioner

These were questions prepared for the Children's Commissioner for Estimates, however, due to time constraints were unable to be asked.

- 1. In the reporting period, how many times did the Office of the Children's Commissioner conduct monitoring visits with and without prior notice to: detention centres and other places where children and young people involved with the justice system are held in the Northern Territory?**

The Office of the Children's Commissioner (OCC) undertook 20 informal monitoring visits to youth detention centres within the reporting period. Six of these visits were at the Alice Springs Youth Detention Centre. The remaining 14 visits were conducted at the Don Dale Youth Detention Centre and then Holtze Youth Detention Centre following the move there in November 2024.

- 2. In the reporting period, how many times did the Office of the Children's Commissioner (OCC) conduct monitoring visits with and without prior notice to places where a child who is in the child protection system resides in the Northern Territory?**

Nil.

- 3. Was the OCC ever denied access to a facility or access to children and young people within that facility on any of these visits?**

Yes, on one occasion OCC were not permitted access to the Don Dale Youth Detention Centre, due to insufficient staffing numbers to escort OCC representatives.

- 4. Please list all the issues that were identified by the OCC staff during these visits for the reporting period.**

Across the monitoring visits, the following issues were identified:

- Don Dale Youth Detention Centre:
  - Poor infrastructure conditions observed, dilapidated, dirty, damaged infrastructure.
  - Increased time confined to accommodation blocks and cells.

- Inadequate access to quality programs and resultant boredom.
- Complaints about the privilege scheme (Centre Cycle Regime).
- Holtze Youth Detention Centre:
  - Incomplete infrastructure including poor acoustics, drainage and fixtures.
  - Lockdowns of children on blocks or in individual cells.
  - Staff shortages.
  - Inability of young people to leave the blocks and access time outdoors.
  - Lack of programs – quality and quantity.
  - Inconsistent application and confusion around rules of the centre.
- Alice Springs Youth Detention Centre:
  - Damaged / incomplete infrastructure and resultant ongoing lockdowns and incidents.
  - Staff shortages.
  - Staff and young people feeling unsafe.

**5. What issues were raised by children and young people with OCC staff during these visits in the reporting period?**

In addition to the issues raised in point 4 above, the top three complaint themes for young people in detention during the reporting period were:

- Extended lock downs – young people being subjected to extended periods of time within their cells, outside the usual structured day activities within youth detention.
- Contact with family – young people’s ability to speak with family via telephone or video call or in-person visits.
- Food – the quality and quantity of food provided to young people in youth detention.

**6. How does the OCC go about having these issues addressed without the legislated power to do so?**

Informal monitoring of youth detention is timely, less resource intensive and usually completed within the one day. It is a critical component of the Children’s Commissioners oversight functions as it allows OCC staff to monitor the conditions within the centre and the health, safety and wellbeing of vulnerable children in the facility, to speak with staff and for early resolution of complaints and issues.

It also provides an opportunity for OCC to provide information and advice on their functions and current work and develop relationships with vulnerable young people in detention.

Following the visit, OCC raises issues identified with youth justice staff (Superintendent or Deputy Superintendent) as soon as practicable – generally on the day monitoring occurred. Most issues can be resolved quickly on the same day or within several days and youth detention staff are pro-active and receptive to resolving matters at the lowest possible level, rather than more formally under the legislated process under the *Children's Commissioner Act 2013* (the Act). Where further action is required, these issues are escalated at the regular executive meetings with the Deputy Commissioner of Corrections in the Department of Corrections.

Informal monitoring also provides an opportunity for young people to raise formal complaints in accordance with section 20 of the Act for more serious matters or matters that have been unable to be resolved at lower levels.

The Children's Commissioner may also undertake an own initiative investigation if satisfied that a matter or matters may form the ground for a complaint pursuant to section 28(2) of the Act, usually commenced through preliminary inquiries. Where options to resolve matters are identified, this will be progressed as a priority over conducting a full investigation, noting resource limitations and potential for more timely and improved outcomes for parties.

Typically, the Children's Commissioner will undertake preliminary inquiries on their own initiative where:

- multiple complaints have been received about a similar issue;
- an anonymous tip off or information source has been provided of concern, which cannot be progressed as a complaint (due to anonymity or sufficient interest by complainant); or
- where during the course of inquiries into another matter, the Commissioner becomes aware of concerning issues that require further attention, but a complaint has not been made.

**7. Has the OCC investigated any complaints or just generally investigated the use of spit hoods on children? If so, what were your findings?**

Within the reporting period, spit hoods were not a lawfully approved restraint in youth detention; therefore, no complaints were received from young people regarding their use.

Complaints relating to use of spit hoods in police custody are dealt with by the Ombudsman.

OCC has previously published a position paper (<https://occ.nt.gov.au/resources/occ-publications/other-reports>) on the use of spit hoods in youth detention, highlighting the harms associated with their use and calling for a legislated ban on use of spit hoods on young people in police custody.

**8. Does the OCC have concerns about the reduction in the age of criminal responsibility back to 10 years old?**

Yes, OCC hold serious concerns about the reduction in the minimum age of criminal responsibility from 12 years to 10 years.

Children in contact with the youth justice system are among some of the most vulnerable members of the NT community. The overwhelming evidence shows OCC that these children have often survived significant trauma, are known to child protection services and are compulsory school age yet disengaged from education. These children are likely to have a diagnosed disability and have been exposed to multiple adverse life experiences including family violence.

Contact with the youth justice system is often the result of a failed service system that is not meeting the needs of our most vulnerable children and families. The focus must be on supporting children and young people to remain connected to positive supports, including education, health, community and culture through community led alternatives with a trauma informed focus.

Further information on these matters can be found in OCC's recent report [Final-Report-Our-most-vulnerable-children-bearing-the-consequences-of-failed-system-OCC-24.pdf](#) into the characteristics, backgrounds and experiences of children aged 10 years of age to 13 years of age who were detained in youth justice centres during 2022-23.

**9. Was the OCC consulted before the age of criminal responsibility was lowered?**

Despite the Children's Commissioner legislated function under section 10(j) of the Act, and the NT Government Legislation Handbook requirement that stipulates 'agencies are to consult with Independent Statutory Officers as / if relevant during the development of legislative proposals', the Children's Commissioner was not consulted on this amendment.

**10. If yes, what were the OCC's recommendations?**

In the absence of the required consultation, the Children's Commissioner wrote to the Hon Lia Finocchiaro MLA, Chief Minister; the Hon Robyn Cahill MLA, Minister for Child Protection; and the Hon Marie-Clare Boothby MLA, Attorney-General, imploring the NT Government not to lower the age from 12 years to 10 years.