

Minister for Human Services

Level 12 South 1 King William Street Adelaide SA 5000 GPO Box 2832 Adelaide SA 5001 DX 115 Tel 08 8463 6560 Fax 08 8463 4480

Our ref: 19MCOR/0095 Your ref: 7663080

Ms Nat Cook Member for Hurtle Vale PO Box 158 WOODCROFT SA 5162

Sent by email: hurtlevale@parliament.sa.gov.au

Dear Ms Cook,

Freedom of information application

I refer to your application under the *Freedom of Information Act 1991* (the Act), received by the Office of the Minister for Human Services on 31 October 2019 seeking access to:

All correspondence between the Training Centre Visitor (and her staff and office) and the Minister (and her staff and office). As well as all correspondence between the Guardian for Children and Young People (and her staff and office) and the Minister (and her staff and office).

Forty Seven documents have been identified as falling within the scope of your application and I have determined to release thirteen documents in part, twenty four documents in full and refuse ten documents in full.

Documents 4, 9, 12, 13, 18, 23, 27, 43, 46 and 47 where marked contain information relating to the personal affairs of third parties, such as the names and mobile phone numbers and I consider that the release of this information would be an unreasonable disclosure of information related to the third parties personal affairs, and have determined it to be exempt pursuant to clause 6(1) of Schedule 1 of the Act.

Documents 9, 10, 13, 18, 34, 44 and 45 contain information concerning the financial affairs of an agency and the disclosure of which could reasonably be expect to have an adverse effect on those affairs or to prejudice the future support of such information to the Government; and on balance, be contrary to the public interest. I have therefore determined to refuse access in part to documents 10, 13, 18, 34 and

44 and refuse access in full to document 45 pursuant to Clause 7(1)(c) of Schedule 1 of the Act.

Documents 7, 8 and 12 contain legal advice provided to the government by its legal advisor, the Crown Solicitor, information which is subject to legal professional privilege. I have therefore determined to refuse access in full to documents 7 and 8 and release in part document 12 pursuant to Clause 10(1).

Documents 17, 19, 22, 25, 37, 40, and 41 are documents that are publicly available, and I have determined to refuse these documents in full under section 20S(1)(b) of Schedule 1 of the Act.

If you are dissatisfied with my determination, you can seek an internal review by writing to the Minister for Human Services as the Principal Officer of the agency. Your request should be sent within 30 days of your receipt of this letter.

In accordance with the requirements of Premier and Cabinet Circular PC045, details of your FOI application, and the documents to which you are given access, may/will be published on the agency's disclosure log. A copy of PC045 can be found at http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars.

If you have any questions in relation to this matter, please contact Amanda Hockings, Office Manager, on telephone 8463 3388 or by email at amanda.hockings2@sa.gov.au. If you are dissatisfied with the outcome of your FOI application, you have the right to complain to the Ombudsman SA. Please contact the Ombudsman directly on (08) 8226 8699.

Yours sincerely

Amanda Hockings

ACCREDITED FOI OFFICER

31 / 12/2019

Freedom of Information Application from Nat Cook MP seeking access to all correspondence between the Training Centre Visitor (and her staff and office) and the Minister (and her staff and office), as well as all correspondence between the Guardian for Children and Young People (and her staff and office) and the Minister (and her staff and office).

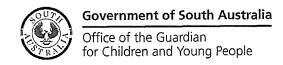
No	Author	Addressee	Date	Description of document	Status/Notes	Determination	Reason
1.	Penny Wright – Guardian for Children and Young People	Minister for Human Services	26/03/2018	Letter - Meeting Request and Congratulations on appointment to the role Minister for Human Services	Consult Penny Wright	Release in Full	
2.	Minister for Human Services	Penny Wright – Guardian for Children and Young People	09/05/2018	Letter – Thank you and agree to arrange a meeting	Consult Penny Wright	Release in Full	
3.	Penny Wright – Guardian for Children and Young People	Office for the Minister for Human Services	26/03/2018	Email containing congratulations letter	Consult Penny Wright	Release in Full	
4.	Penny Wright – Guardian for Children and Young People	Ministerial Advisor	24/05/2018	Email chain – Training Centre Visitor meeting request	Consult Penny Wright	Partial Release	Personal Affairs Clause 6(1)(C)
5.	Penny Wright – Guardian for Children and Young People	Minister for Human Services	17/04/2018	Email regarding memo and report	Consult Penny Wright	Release in Full	
6.	Penny Wright – Guardian for Children and Young People	Minister for Human Services	27/04/2018	Email regarding delegation power for Training Centre Visitor	Consult Penny Wright	Release in Full	
7.	Penny Wright – Guardian for Children and Young People	Minister for Human Services	27/04/2018	Email attachment – Letter regarding delegation power for Training Centre Visitor	Consult Penny Wright	Refused in Full	Clause 10(1) Legal
8.	Crown Solicitor	Training Centre Visitor and Youth Justice	09/03/2017	Letter regarding Training Centre Visitor – delegation of functions under the Youth Justice Act	Consult Penny Wright	Refused in Full	Clause 10(1) Legal

No	Author	Addressee	Date	Description of document	Status/Notes	Determination	Reason
9.	Penny Wright – Guardian for Children and Young People	Chief of Staff to the Minister for Human Services	26/09/2018	Email regarding meeting	Consult Penny Wright	Partial Release	Personal Affairs Clause 6(1)(C) Clause 7(1)(C)
10.	,			Budget Proposal 2018/19 – Training Centre Visitor Program	Consult Penny Wright	Partial Release	Budget Clause 7(1)(C)
11.	Office Manager – Office of the Guardian for Children and Young People	Minister for Human Services	18/07/2018	Email containing letter regarding implementation of the Training Centre Visitor role	Consult Penny Wright	Release in Full	
12.	Penny Wright – Training Centre Visitor	Minister for Human Services	18/07/2018	Letter regarding implementation of the Training Centre Visitor role	Consult Penny Wright	Partial Release	Clause 6(1)(C) Clause 10(1)
13.	Penny Wright – Guardian – Training Centre Visitor	Chief of Staff to the Minister for Human Services	27/09/2018	Thank you for meeting email Consult Penny Wright		Partial Release	Clause 6(1)(C) Clause 7(1)(C)
14.	Office Manager – Office of the Guardian for Children and Young People	Minister for Human Services	19/12/2018	Email containing letter to Minister for Police from Penny Wright	Consult Penny Wright	Release in Full	
15.	Penny Wright – Training Centre Visitor	Minister for Police, Emergency Services and Correctional Services	19/12/2018	Letter regarding request for information under section 15(1) of the Youth Justice Administration Act 2016	Consult Penny Wright	Release in Full	
16.	Minister for Human Services	Penny Wright – Training Centre Visitor	22/10/2018	Thank you letter for the annual report for year ending 30 June 2018	Consult Penny Wright	Release in Full	
17.			2017-2018	Training Centre Visitor Annual Report 2017- 2018	Consult Penny Wright	Refused in full	Publicly Available Clause 20S(1)(b)
18.	Penny Wright – Guardian – Training Centre Visitor	Chief of Staff to the Minister for Human Services	04/03/2019	Email regarding Training Centre Visitor Program: the case for an increased budget – proposed 2019/2020 budget request	Consult Penny Wright	Partial release	Clause 6(1) Clause 7(1)(C)
19.			March 2019	Training Centre Visitor Program: the case for an increased budget report	Consult Penny Wright	Refused in full	Publicly Available

No	Author	Addressee	Date	Description of document	Status/Notes	Determination	Reason
20.	Penny Wright – Training Centre Visitor	Minister for Human Services		Letter of response regarding the 2019/2020 budget	Consult Penny Wright	Release in full	
21.	Penny Wright – Guardian – Training Centre Visitor	Minister for Human Services	07/03/2019	Email regarding the report of the TCV 2018 Pilot Visiting Program and Review of Records	Consult Penny Wright	Release in full	
22.			February 2019	Report on Pilot Visiting Program and Review of Records for the Adelaide Youth Training Centre 2018	f Records for the Adelaide Youth Training Wright		Publicly Available Clause 20S(1)(b)
23.	Penny Wright – Guardian – Training Centre Visitor	Minister for Human Services	14/03/2019	Follow Up Email regarding the report of the TCV 2018 Pilot Visiting Program and Review of Records	Consult Penny Wright	Partial Release	Personal Affairs Clause 6(1)(C)
24.	Penny Wright – Guardian – Training Centre Visitor	Minister for Human Services	17/05/2019	Email containing attachment - annual Snapshot of SA Aboriginal Children and Young People in Care and/or Detention from the ROGS 2019	Consult Penny Wright	Release in full	
25.			April 2019	Snapshot of SA Aboriginal Children and Young People in Care and/or Detention from the ROGS 2019	Consult Penny Wright	Refused in full	Publicly Available Clause 20S(1)(b)
26.	Training Centre Visitor	Minister for Human Services	17/05/2019	Memorandum for information regarding the Expenditure on SA Aboriginal and Torres Strait Islander Children and Young People in Care and/or Detention from the Report on Government Services 2019	Consult Penny Wright	Release in full	
27.	Penny Wright – Guardian – Training Centre Visitor	Chief or Staff to the Minister for Human Services	20/05/2019	Email regarding snapshot of SA Aboriginal and Torres Strait Islander Children and Young People in Care and/or Detention from the Report on Government Services 2019	Consult Penny Wright	Partial Release	Personal Affairs Clause 6(1)(C)
28.	Office of the Minister for Human Services	Office of the Guardian for Children and Young People	03/07/2019	Apology to Invitation to the launch of the premises	Consult Penny Wright	Release in full	
29.	Penny Wright – Guardian – Training Centre Visitor	Minister for Human Services	27/06/2019	Invitation to the official launch to the new premises	Consult Penny Wright	Release in full	

No	Author	Addressee	Date	Description of document	Status/Notes	Determination	Reason
30.	Office of the Minister for Human Services	Office of the Guardian for Children and Young People	11/07/2019	Email advising of the referral to Minister for Health and Wellbeing Consult Penny Wright Email containing letter to Minister regarding Consult Penny Release in full			
31.	Office of the Guardian for Children and Young People	Minister for Human Services	09/07/2019	Email containing letter to Minister regarding Controlled Substances (Youth Treatment Orders) Amendment Bill 2018	Consult Penny Wright	Release in full	
32.	Penny Wright – Guardian and Training Centre Visitor	Minister for Human Services	09/07/2019	Letter regarding Controlled Substances Youth Treatment Orders) Amendment Bill Wright Wright			
33.	Office of the Guardian for Children and Young People	Minister for Human Services	19/07/2019	Email containing letter to Minister regarding Controlled Substances (Youth Treatment Orders) Amendment Bill 2018 Consult Penny Wright			
34.	Penny Wright – Guardian and Training Centre Visitor	Minister for Human Services	19/07/2019	Letter regarding Controlled Substances (Youth Treatment Orders) Amendment Bill 2018 – sub-clause 54L	Consult Penny Wright	Partial Release	Clause 7(1)(C)
35.	Minister for Human Services	Penny Wright – Guardian and Training Centre Visitor	14/08/2019	Letter of Response regarding Controlled Substances (Youth Treatment Orders) Amendment Bill 2018	Consult Penny Wright	Release in full	
36.	Penny Wright – Guardian and Training Centre Visitor	Minister for Human Services	03/08/2019	Email regarding 2018 TCV Term 4 AYTC Visiting and Review of Records Report and seeking meeting	Consult Penny Wright	Release in full	
37.			August 2019	Visiting Program and Review of Records: Adelaide Youth Training Centre, For Term 4, 2018	Consult Penny Wright	Refused in full	Publicly Available Clause 20S(1)(b)
38.	Office of the Minister for Human Services	Office of the Guardian for Children and Young People	30/09/2019	Minister's Attention Acknowledgement Email regarding the Training Centre Visitor 2018-19 Annual Report	Consult Penny Wright	Release in full	
39.	Minister for Human Services	Penny Wright – Training Centre Visitor	31/10/2019	Letter of Response regarding Training Centre Visitor Annual Report 2018-19	Consult Penny Wright	Release in full	
40.			September 2019	Training Centre Visitor Annual Report 2018- 19	Consult Penny Wright	Refused in full	Publicly Available Clause 20S(1)(b)

No	Author	Addressee	Date	Description of document	Status/Notes	Determination	Reason
41.			April 2018	Snapshot of SA Aboriginal and Torres Strait Islander Children and Young People in Care and/or Detention from the Report on Government Services 2018	Consult Penny Wright	Refused in full	Publicly Available Clause 20S(1)(b)
42.	Training Centre Visitor	Minister for Human Services	17/04/2018	Memorandum regarding expenditure on SA Aboriginal and Torres Strait Islander Children and Young People in Care and/or Detention from the Report on Government Services 2018	Consult Penny Wright	Release in full	
43.	Ministerial Advisor	Office for the Guardian for Children and Young People	04/08/2019	Email regarding acting TCV authorisation letter	Consult Penny Wright	Partial Release	Personal Affairs Clause 6(1)(C)
44.	Training Centre Visitor	Janette Hancock	06/03/2019	Email regarding Training Centre Visitor Program: the case for an increased budget - proposed 2019/2020 budget	Consult Penny Wright	Partial Release	Clause 7(1)(C)
45.	Training Centre Visitor	Janette Hancock	06/03/2019	Training Centre Visitor Program: the case for an increased budget - proposed 2019/2020 budget	Consult Penny Wright	Refused in full	Clause 7(1)(C)
46.	Training Centre Visitor	Janette Hancock	26/02/2019	Email regarding update for Minister on Activities of Training Centre Visitor July - December 2018	Consult Penny Wright	Partial Release	Personal Affairs Clause 6(1)(C)
47.	Training Centre Visitor	Janette Hancock	26/02/2019	Update for Minister on Activities of Training Centre Visitor July - December 2018	Consult Penny Wright	Partial Release	Personal Affairs Clause 6(1)(C)



Level 4 East Wing 50 Grenfell Street Adelaide SA 5000

GPO Box 2281 Adelaide SA 5001 DX115

Tel 08 8226 8570 Fax 08 8226 8577 gcyp@gcyp.sa.gov.au www.gcyp.sa.gov.au

Hon Michelle Lensink Minister for Human Services,

Via email: Tobias.Olsson@sa.gov.au

26 March 2018

Dear Minister Dear Minister

Please accept my congratulations on your appointment to the role of Minister for Human Services.

I would welcome the opportunity to meet with you, and/or your advisers, to discuss my role as Training Centre Visitor under the *Youth Justice Administration Act 2016*, at your convenience.

I would also like to offer you the opportunity to meet with members of my TCV Unit who can update you on the establishment of the unit, our plans for the next year and our newly commenced visiting service at the Adelaide Youth Training Centre.

I understand that this will be a very busy time for you, with many meetings, so I will await contact from your office as to when you would like to meet and what form of briefing would be most helpful for you.

I look forward to a strong and productive working relationship with you in the future, in the interests of the children and young people who are residents of the Adelaide Youth Training Centre.

Yours sincerely,

Penny Wright

Guardian for Children and Young People

Training Centre Visitor

Child and Young Person's Visitor



Government of South Australia

Minister for Human Services

Level 12 South 1 King William Street Adelaide SA 5000 GPO Box 2832 Adelaide SA 5001 DX 115 Tel 08 8463 6560 Fax 08 8463 4480

18MHS0002

Ms Penny Wright
Training Centre Visitor
Guardian, Office of the Guardian for Children and Young People
GPO Box 2281
ADELAIDE SA 5001

Dear Ms Wright

Thank you for your letter of congratulations on my appointment as Minister for Human Services and request for a meeting.

I look forward to discussing the role and functions of the Training Centre Visitor and work that has been undertaken by your office to implement the important independent monitoring and inspection requirements under the *Youth Justice Administration Act 2016*.

I understand that you had a meeting with the Executive Director, Youth Justice on 30 April 2018 to discuss the establishment of protocols for visits to and inspections of the Adelaide Youth Training Centre, requests for information and the provision of advocacy services to residents.

A member of my staff will be in contact shortly to arrange a meeting.

Yours sincerely

Hon Michelle Lensink MLC

MINISTER FOR HUMAN SERVICES

Siclelle Lewin

9 15 /2018



From:

Olsson, Tobias (DCSI)

To:

Kellett, Ashlee (DCSI)

Subject:

FW: Congratulations to Minister Lensink on her appointment

Date: Attachments: Monday, 26 March 2018 3:56:16 PM 2018-03-26 Letter, Guardian to Hon M Lensink, Min Human Services.pdf

image002.png image004.jpg

From: Wright, Penny (GCYP)

Sent: Monday, 26 March 2018 1:31 PM

To: Olsson, Tobias (DCSI) <Tobias.Olsson@sa.gov.au>

Subject: Congratulations to Minister Lensink on her appointment

Good afternoon Tobias.

I have been advised that it is best to forward correspondence to Minister Lensink via you at this stage.

I would be grateful if you would bring the attached letter to the attention of the Minister.

Thank you,

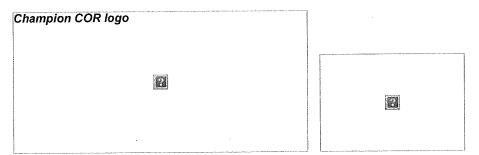
Best wishes,

Penny Wright | Guardian Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 4 East, 50 Grenfell Street, Adelaide SA 5000 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au | Fax: +61 8 8226 8577

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We acknowledge and respect Aboriginal People as the traditional owners and custodians of the land we live and work on, their living culture and their unique role in the life of the South Australia.



Mets, Joanne (DHS)

From:

Maddeford, Selena (DHS)

Sent:

Thursday, 24 May 2018 4:32 PM

To:

Kellett, Ashlee (DHS)

Subject:

FW: TCV seeking urgent meeting with Minister Lensink

From: Maddeford, Selena (DHS)

Sent: Thursday, 24 May 2018 11:55 AM

To: Wright, Penny (GCYP) < Penny. Wright@sa.gov.au > Cc: Hamilton, Rachael (DHS) < Rachael. Hamilton@sa.gov.au> Subject: RE: TCV seeking urgent meeting with Minister Lensink

Hi Penny

My apologies I have been in meetings all morning.

You must have read our minds today, Rachael who is taking care of the Minister's diary at the moment will be in contact with you shortly to discuss.

Please give me a call if there are any issues.

Kind regards

Selena Maddeford (Staude)

Ministerial Adviser

Office of the Hon Michelle Lensink MLC **Minister for Human Services** Department of Human Services

Tel: 08 8463 6560

Mobile: Clause 6(1)
Email: Selena.Staude@sa.gov.au



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From: Wright, Penny (GCYP)

Sent: Thursday, 24 May 2018 10:25 AM

To: Maddeford, Selena (DHS) < Selena. Maddeford@sa.gov.au > Subject: TCV seeking urgent meeting with Minister Lensink

Importance: High

Good morning Selena.

I have just left a message on your voicemail but I will follow up with this email to seek an urgent meeting with Minister Lensink to discuss two particularly pressing matters:

1. Delegation powers for the Training Centre Visitor – that is, the need for an urgent interim delegation by the Minister or the CE, DHS of some of my powers, to my staff (particularly visiting, inspection and advocacy) - with the option of a legislative amendment in the longer term

I wrote to the Minister on 27th April 2018 in relation to this matter. Please let me know if you require a copy of that letter or further information.

2. My advice to the Executive Director of Youth Justice that I require an increase to my 2018/19 budget to enable me to fulfil my statutory functions as Training Centre Visitor.

In 2016 the then-Guardian and the CE, DCSI negotiated for an initial budget for the TCV Program. The amount funded was substantially less than originally determined by the Guardian to be needed to commence the establishment of the Training Centre Visitor program, but it was agreed on the basis that it was only ever an interim measure until the resources for the program could be more reliably identified. I have now reviewed that budget on the basis of significant scoping and planning work done to date. It is clear to me that my current 2018/19 budget will not be adequate to enable me to fulfil my statutory functions.

I am in the process of developing a Brief which I will provide to the Minister as soon as possible (or at the meeting, at the latest). Please let me know if you would like me to send you further information at this stage about either of these matters and I look forward to hearing from you regarding a meeting with the Minister

Best wishes,

Penny Wright | Guardian and Training Centre Visitor Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 4 East, 50 Grenfell Street, Adelaide SA 5000 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au | Fax: +61 8 8226 8577

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We acknowledge and respect Aboriginal People as the traditional owners and custodians of the land we live and work on, their living culture and their unique role in the life of South Australia.







Mets, Joanne (DHS)

From:

Wright, Penny (GCYP)

Sent:

Tuesday, 17 April 2018 1:41 PM

To:

DHS:Minister for Human Services

Subject:

Memorandum with Summary Report attached - Aboriginal Children and Young People in Care and

Detention

Attachments:

2018-04-17 Memo to MHS to accompany report on expenditure on Aboriginal Children and Young

People in Care and Detention in South Australia.pdf; 2018-04-17 - ROGS 2018 Aboriginal Snapshot

Report - CP and YJ.pdf

Categories:

Printed

Please find attached Memo and Report for the attention of Minister Lensink.

Best wishes,

Penny Wright | Guardian and Training Centre Visitor Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 4 East, 50 Grenfell Street, Adelaide SA 5000 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au | Fax: +61 8 8226 8577

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Champion for the



for Children and Young People in Care



Hockings, Amanda (DHS)

From:

Wright, Penny (GCYP)

Sent: To: Friday, 27 April 2018 5:25 PM DHS:Minister for Human Services

Subject:

Request for urgent assistance regarding delegation power for Training Centre Visitor

Attachments:

2018-04-27 TCV to Minister HS re need for assistance on delegation issue.docx; CSO Advice

regarding TCV powers of delegation 2017-03-09 (A16519309).pdf

Categories:

Printed

Please find attached a letter for the Minister of Human Services together with Crown Law Advice in relation to limitations on my power, as Training Centre Visitor, to delegate my functions to my staff.

Best wishes,

Penny Wright | Guardian and Training Centre Visitor Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 4 East, 50 Grenfell Street, Adelaide SA 5000 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au | Fax: +61 8 8226 8577

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Champion for the







Hockings, Amanda (DHS)

From:

Hancock, Janette (DHS)

Sent:

Thursday, 27 September 2018 9:36 AM

To:

Mets, Joanne (DHS)

Subject: Attachments: FW: My Meeting with the Minister today 2018-05-15 TCVP 2018-2019 Budget.pdf

Hi Jo

Can you please add this email and attachment to Objective 18MHS/0636

thanks

Dr Janette Hancock

Chief of Staff

Minister for Human Services

Department of Human Services

Tel: 08 8204 1958 Mob: Clause 6(1)

Email: Janette.Hancock@sa.gov.au



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From: Hancock, Janette (DHS)

Sent: Thursday, 27 September 2018 9:34 AM

To: Wright, Penny (GCYP) <Penny.Wright@sa.gov.au> **Subject:** RE: My Meeting with the Minister today

Thank you Penny for providing the original budget bid and for meeting with us yesterday.

We will go through the points you've raised below and will arrange another meeting to discuss further.

Good luck with finalising your annual report.

Kind regards

Janette

Dr Janette Hancock

Chief of Staff

Minister for Human Services

Department of Human Services

Tel: 08 8204 1958 Mob: Clause 6(1)

Email: Janette.Hancock@sa.gov.au



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From: Wright, Penny (GCYP)

Sent: Wednesday, 26 September 2018 1:48 PM

To: Hancock, Janette (DHS) < Janette. Hancock@sa.gov.au>

Subject: My Meeting with the Minister today

Dear Janette,

Thank you to you and the Minister for meeting with me today.

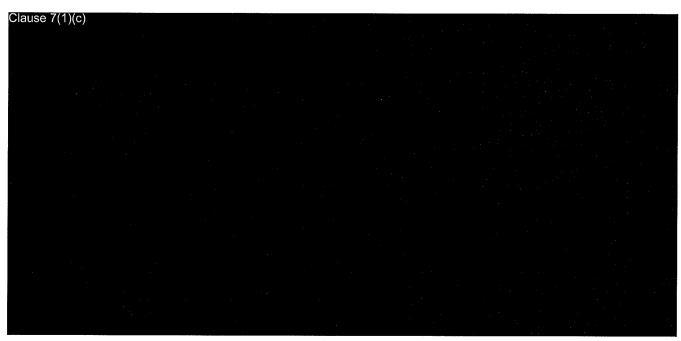
I confirm that I particularly wished to draw two matters to the Minister's attention.

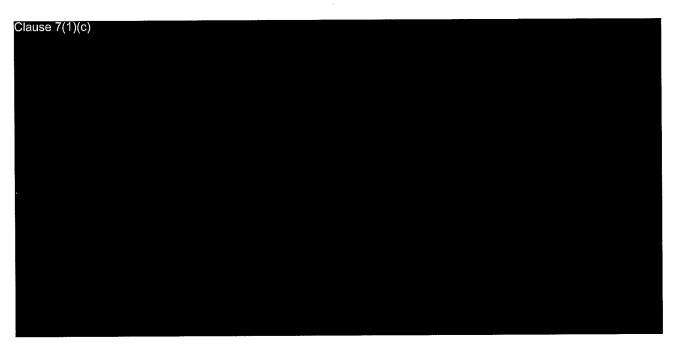
One was the implications of the unsuccessful bid for additional funding for the TCV Program by the Youth
Justice Directorate in this year's budget. The current funding provides for 2.4 FTE staff to establish and operate
the TCV Program and \$43,000 for Goods and Services (ie all other costs). Failing to secure the additional funding
will compromise my ability to fulfil my functions as Training Centre Visitor this financial year and into the future.

As you expressed some doubt that the costings in the bid may not have been clear or may have been subject to change, I attach the budget submitted to Youth Justice and, ultimately, Treasury, for your information. You will see it is detailed and purports to be: "a realistic budget if the intention is to meet Parliament's intentions for the TCV Program." The only unknown in terms of future costs is the implementation of OPCAT, which will need to be accommodated when, and if, the TCV is appointed as part of the National Preventative Mechanism in relation to the detention of young people. That is a decision yet to be made by government down the track.

Youth Justice already have a copy of this budget document. They had indicated they were supporting this increased funding to enable the TCV Program to operate effectively.

As we discussed in our meeting, the implications of the failure to secure this additional funding are clear and are having an effect right now as we review the outcomes of the pilot 10 week visiting program and determine what is possible in the future:





I look forward to resolving these outstanding matters as soon as possible.

Best wishes,

Penny Wright
Guardian | Training Centre Visitor | Child and Young Person's Visitor
Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 4 East, 50 Grenfell Street, Adelaide SA 5000 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au | Fax: +61 8 8226 8577

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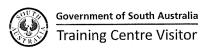
We acknowledge and respect Aboriginal People as the traditional owners and custodians of the land we live and work on, their living culture and their unique role in the life of South Australia.



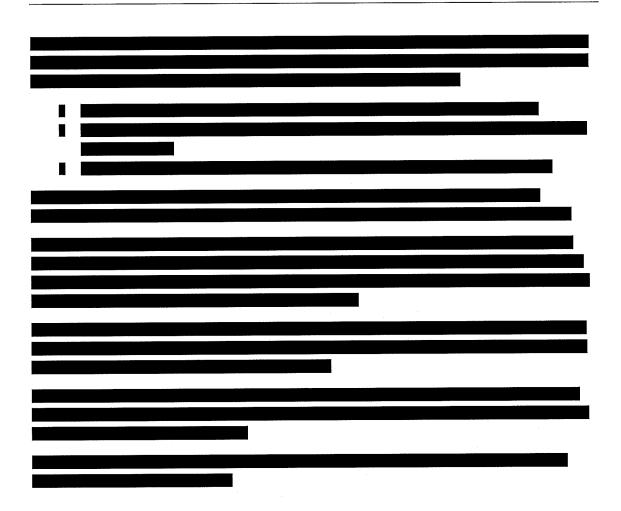


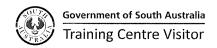


A model charter of rights for children and young people delained in youth justical ecities



BUDGET PROPOSAL 2018/19 TRAINING CENTRE VISITOR PROGRAM





Clause 7(1)(c)



Hockings, Amanda (DHS)

From:

1

McDonald, Mardy (GCYP)

Sent:

Wednesday, 18 July 2018 1:38 PM DHS:Minister for Human Services

To: Cc:

Harrison, Tony (DHS); Homden, Michael (DHS-YouthJustice)

Subject:

Letter to the Minister of Human Services from Penny Wright re: Implementation of the Training

Centre visitor role

Attachments:

2018-07-18 Letter to the Minister of Human Services re Implementation of the Training Centre

visitor role.PDF

Importance:

High

Categories:

Printed

Dear Minister,

Please find attached a letter from Penny Wright, Training Centre Visitor, for your attention.

A paper version will also be sent by post.

Regards,

Mardy McDonald | Office Manager Office of the Guardian for Children and Young People

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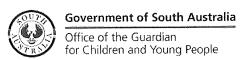
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The Hon. Michelle Lensink MLC Minister for Human Services Level 12 South 1 King William Street Adelaide SA 5000

Cc: Mr Tony Harrison, Chief Executive (DHS)
Mr Michael Homden, Executive Director, Youth Justice (DHS)

18 July 2018

Dear Minister Lensink

Implementation of the Training Centre Visitor role

I am writing to raise serious concerns with you about my capacity to establish and undertake my role as Training Centre Visitor (TCV) under the *Youth Justice Administration Act 2016* (the Act).

I have already have raised some of these concerns with you, namely the need to confirm my capacity to delegate my responsibilities to my staff, and the resourcing issues that have informed my budget proposal for 2018/19.

I have finally received Crown Law advice about the scope of TCV functions and powers, which I originally requested in January, and I am now in a position to raise all of these critical matters with you at once.

I seek an urgent discussion with you because my first Annual Report to Parliament will necessarily focus on the establishment of the TCV role and program, and any impediments thereto. The Act requires that I report to the parliament and provide this report to you by 30 September.

This letter addresses these substantive matters with six documents appended to support your consideration –

- Attachment 1 Advocacy: indicative case studies to illustrate the work of the TCV
- Attachment 2 TCV letter to Crown Law 1 (and accompanying note); 16 January 2018
- Attachment 3 Crown Law advice 1; 19 February 2018 (ref: CSO:M00171130FS06697063)
- Attachment 4 TCV letter to Crown Law 2; 22 March 2018
- Attachment 5 Crown Law advice 2; 22 June 2018 (ref: CSO:M00171130FS06984499)
- Attachment 6 Brief to AGD on Resourcing Implications for TCV and OPCAT (3 Nov. 2017).

It is my view that the TCV should operate in such a way as to give effect to the *Charter of Rights for Youths Detained in Training Centres*, which was established pursuant to s.22(4) of the Act. By contrast, the Crown Law advice offers a highly literal interpretation of the TCV's functions and powers and significantly restricts the mandate and scope of the TCV, compromising that purpose. If that restrictive reading is to stand, it will be necessary to take corrective steps either through legislative amendments or other appropriate means if I am to effectively undertake the TCV role.

ISSUE 1 – Delegations

I refer to my letter to you of 27 April, 2018, in which I alerted you to Crown Law advice that the Act contains no formal power to delegate my powers and functions as Training Centre Visitor. The powers which are particularly problematic are the power to conduct visits to a training centre, the power to compel the production of documents and the power to conduct inspections. It is noteworthy that analogous legislation, the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* (CYPOAB Act), includes a provision (s.23) which allow the Guardian to delegate a function or power.

Although the Department for Youth Justice and the management of the AYTC have evinced commendable goodwill so far, in allowing my staff to act on my behalf to fulfil my functions of visiting and requesting information, this is not a satisfactory or sustainable arrangement, given my independent oversight role and responsibilities.

I therefore request that you consider amending the *Youth Justice Administration Act 2016* to allow the TCV to delegate —

- Visiting functions (with likely implications for at least s.10, s.14(1)(a), and s.16 of the Act)
- Advocacy functions (s.14(1)(d), and s.15)
- Inspection functions (s.14(1)(b))
- and any related delegations necessary to allow other functions to occur e.g. s.14(1)(e), to
 provide advice to the minister in relation to systemic reform and s.14(1)(f), to inquire into
 and investigate any matter referred by the Minister).

ISSUE 2 - Scope of TCV powers under Act

Once establishment work began for the TCV Program in November 2017, it became clear that aspects of the Act needed clarification. I initially sought Crown Law advice about various matters in January this year (see *Attachment 2*). A preliminary response was provided on 19 February (*Attachment 3*). I sent an updated request on 22 March (*Attachment 4*) and received final advice on 22 June (*Attachment 5*).

Although I have reservations about some elements of the advice, as it stands it has clear and significant implications for the effectiveness of the Training Centre Visitor Program. I discuss four of these issues here –

- a. the need for a sufficiently broad TCV mandate / the TCV as a State Authority
- b. the restricted reading of the term "resident"
- c. the potentially compromised nature of the Advocacy function under s.14(1)(d) of the Act
- d. the Crown Law reading of the s.14(1)(c) "best interests" function and its context would make this sub-section of limited practical purpose or effect

These implications are highlighted below and have been reinforced by actual experience gained in the first few months of our limited program operations; I have no doubt the longer-term impact will be more challenging still.

a. Need for a sufficiently broad mandate

I believe that the intention of Parliament in establishing the TCV was to put an effective oversight mechanism in place for children and young people who were sentenced or remanded to detention.

Added to that, my responsibility as TCV is also subject to other parliamentary requirements beyond the specific tasks identified in the *Youth Justice Administration Act 2016*. In particular, several are articulated in the *Children and Young People (Safety) Act 2017* (Safety Act) —

- as a 'State agency' to safeguard and promote the welfare of children and young people (s.5)
- as a state authority "whose functions and powers include matters relating to the safety and welfare of children and young people" as TCV I "must have regard to the fact that early intervention in matters where children and young people may be at risk is a priority" (s.9)
- obligations as TCV in relation to training centre residents who are also under guardianship orders and therefore subject to the Charter of Rights for Children and Young People in Care in addition to the Charter of Rights for Youths Detained in Training Centres (Part 4 of the Children and Young People (Safety) Act 2017). It is notable that in 2016/17, 21.9 per cent of individual residents were also under guardianship orders at the time of their admission

The obvious impact of such provisions in the Safety Act is that I must have regard to a range of matters that go beyond the immediate experiences of children and young people in a way that is determined solely by their status as 'residents of a training centre'. These provisions also complement the requirement in s.3(2)(a) of the *Youth Justice Administration Act 2016* that those involved in the administration of the Act should be guided by the principle that "in exercising powers under this Act, consideration should at all times be given to promoting the wellbeing and best interests of youths".

b. Implications of the Crown Law interpretation of the term "resident"

The Crown Law advice essentially suggests that children and young people *only* come within my responsibilities when they are residents and physically *in* the training centre precincts. As well as being impractical, I believe this is inconsistent with the intention of parliament.

This advice also creates an anomaly given that s.24 of the Act describes the Minister's responsibilities as follows —

24 Minister has custody of youths in detention

The Minister has the custody of a resident of a training centre, whether the resident is within, or outside, the precincts of a training centre in which he or she is being detained, or is to be detained.

This 'custodial' relationship between the Minister and the resident clearly continues whether a resident is within or outside the AYTC precincts. It is difficult to understand why Parliament would have intended that the TCV's brief would apply to only parts of that custodial arrangement.

The suggestion that my mandate should shift according to the physical location of a sentenced or remanded resident at a particular point of time is nonsensical and essentially unworkable, as will be shown below. Rather, I suggest that the intention of Parliament was that the TCV would exercise relevant functions from the point at which a child or young person passed from custody of the Youth Court to the Department of Human Services until they are released.

If the Crown advice is correct, then a sentenced or remanded child or young person would pass in and out of mandate during their period of detention. The implications of such spasmodic oversight are that a resident will have periods of time during which none of the protections afforded by the TCV program would apply.

There are numerous reasons a child or young person may leave the physical precincts of the training centre, as illustrated in Table 1 below (noting that s.34 leave can be granted for a variety of reasons).

Table 1 – the TCV's interrupted mandate

Police arrest a CYP and take them to the AYTC	Not in mandate
The CYP is admitted to custody in the ATYC on remand pending	In mandate
appearance at court	
A private contractor transports the CYP to the Youth Court	Not in mandate
CYP is in the Youth Court for sentencing	Not in mandate
A private contractor transports the CYP to the Training Centre	Not in mandate
The CYP is admitted to the AYTC	In mandate
The CYP is transported to and from Boylan Ward for mental	Not in mandate
health treatment	स्वयं स्वयं मृत्यून स्वयं स्वृतिकात् स्तर
The CYP is held and treated in Boylan Ward	Not in mandate
The CYP returns and is held in the AYTC	In mandate
The CYP is granted s.34 leave of absence for hours or days (e.g.	Not in mandate
to attend a funeral)	

The CYP returns and is held in the AYTC	In mandate
The CYP is transported to and from a Youth Court hearing	Not in mandate
The CYP returns and is held in the AYTC	In mandate
A CYP is granted conditional release or home detention under	Not in mandate
Part 5 of the Young Offenders Act 1993 and does not return to	
the AYTC prior to their ultimate release	
CYP is released or is on conditional release (but has an advocacy	Not in mandate?
matter in train)	

It is clearly not in the best interests of a child or young person in youth justice detention to be subject to such disjointed oversight. Discussion about the Advocacy function immediately below, reinforced by the case studies provided as *Attachment 1*, indicates that the rights of detained children and young people would be seriously curtailed by requiring a strict correlation between their status as a 'resident in the training centre' and their foreseeably changing physical locations at points in time during their remand and/or sentence period.

The effect of the advice would mean that advocacy would stop and start depending on the physical location of the child or young person at any particular time. As well as not being in the best interests of the residents, this is just not workable.

c. TCV functions - Advocacy, s.14(1)(d) of the Act

The interpretation of various clauses of the Act by Crown Law would make the TCV advocacy function under s.14(1)(d) of the Act inoperable in certain circumstances. This sub-section requires me -

(d) to act as an advocate for the residents of a training centre to promote the proper resolution of issues relating to the care, treatment or control of the residents

Clause 6(1)

A key message from consultations conducted by my staff with the residents of the AYTC in May 2018 was that residents saw several factors as *essential* features of an advocacy function.

These included -

- consistency in TCVU staff with whom they build a relationship
- an Advocate with whom they can build trust and confidence
- accessibility when they need support (without delay), and
- confidential, simple self-referral opportunities.

Similar desirable features for advocacy have been noted by various inquiries and commissions. The national *Royal Commission into Institutional Response to Child Sexual Abuse* (2017), for example, noted the importance for children in detention of access to trusted adults and improved access to support, including advocacy. The Northern Territory Royal Commission noted that separation of

functions across multiple bodies can make it challenging for children and young people to have confidence and build trust with staff from oversight and independent bodies.

Consistency of support can help avoid confusion and empower children and young people to better understand and navigate the various systems that control their lives.

It is critical, therefore, that my TCV advocacy staff are explicitly enabled to provide an advocacy service to children and young people detained in the youth justice system from the point at which they are sentenced or remanded to the point at which they are released. In some cases, post-release advocacy also should be available.

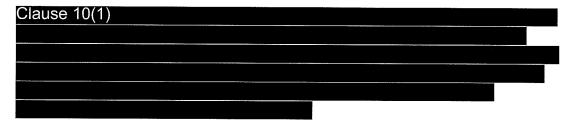
A scenario where residents hop in and out of mandate, as illustrated in Table 1, needs to be addressed as a matter of urgency.

I anticipate that similar concerns will arise once activities relating to the TCV's visiting and inspection functions under sub-sections 14(1) (a) and (b) of the Act commence in the coming months.

d. Best interests – s.14(1)(c) of the Act

As Training Centre Visitor, my responsibilities include a requirement –

(c) to promote the best interests of the residents of a training centre



ISSUE 3 - Detention of children and young people - increasing oversight demands

Currently there are some places of detention which are not subject to the requirements of the Act and therefore do not come within Training Centre Visitor responsibilities: for instance, custody in police cells or the Youth Court; being held in secure medical facilities; being under the control of private sector firms while in transit.

We should be concerned if children and young people are held in places of detention that are not subject to independent statutory oversight. Conceivably, some of these environments or places warrant heightened concern, especially if adults also are detained there. Associated risks may be elevated for those groups identified by Parliament as being of particular concern: Aboriginal and Torres Strait Islander children and young people; those under guardianship; and those who have a physical, psychological or intellectual disability (s.14(2)(b) of the Act).

¹ Discussed as Conclusion 2 in the note accompanying that letter – see Attachment 2.

I raise two specific matters in this context -

a. OPCAT

The current apparent impasse in State/Commonwealth discussions about the establishment of an adequate National Preventative Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) will at some stage be resolved. Consideration will again be required of a potential TCV role within South Australia's component of the NPM in relation to "places of detention" of children and young people.

Attachment 6 to this letter indicates my position with respect to a potential NPM role as it was being discussed late in 2017. Table 2 of that attachment illustrates the work tasks that need to be considered if the TCV is to assume responsibilities for "places of detention" for youth within South Australia's NPM.

As I indicated in those discussions, the *Youth Justice Administration Act 2016* was drafted to be congruent with OPCAT requirements but my mandated role currently focuses on only one "place of detention": training centres. So, while congruence with OPCAT is a theme running through our current program development activities, it does not cover the field of places that will be subject to OPCAT requirements with respect to the detention of children and young people.

If legislative amendments are to be introduced to resolve the serious issues already discussed above, it could be useful to reconsider the wording of s.14 of the Act to enable more flexibility in the emerging environment.

I note in relation to OPCAT that I have just received correspondence from Mr Michael Manthorpe, Commonwealth Ombudsman (dated 6 July 2018) advising me of activities he wishes to undertake in order to meet his assigned role as the National NPM Coordinator and seeking provision of advice in relation to TCV responsibilities in South Australia.

b. Opportunity for legislative flexibility

Clause 10(1)				

Legislative amendment of s.14(1) of the Act, along the following lines, would allow a relatively simple, flexible and permanent resolution -

Current text

14—Training Centre Visitor's functions

(1) The functions of the Training Centre Visitor include the following:

Proposed text

14—Training Centre Visitor's functions

(1) The functions of the Training Centre Visitor with respect to training centres, and such other places of youth detention or custody as are identified in the regulations, include the following:

This change would allow for anticipated or existing requirements, including those that will arise under the OPCAT. It would also provide flexibility to complement other initiatives such as those proposed in the Controlled Substances (Youth Treatment Orders) Amendment Bill 2018 currently before Parliament. A serious weakness of that bill, as currently drafted, which proposes to detain children and young people for up to one year, is that it is silent about mechanisms for the protection of basic rights that an independent officer such as the TCV could provide.

Creating flexibility to address changing circumstances through Regulation is an appropriate mechanism accountable to the Parliamentary process. It also identifies some matters as being of sufficient weight as to warrant scrutiny through the Parliamentary monitoring process.

ISSUE 4 - Consultation for legislative and policy processes

Where possible, within my mandated areas of responsibility, I would prefer to be involved in dialogue with you, other Ministers and the government generally at an early stage of policy or statutory development so that my input may inform your formative thinking. While it is my duty to participate appropriately in public discussions, it can be more effective and respectful to have an opportunity to raise potentially sensitive issues beforehand they become enshrined in policy or legislation.

ISSUE 5 - Resources

The initial business case made for the TCV Program was developed on the basis of what was reasonably required to establish a service to fulfil the functions set out in the Act. The TCV budget proposal I have now provided for consideration as part of the 2018/19 budget effectively repeats this submission. My experience from the establishment activities to date have confirmed a notable feature of that proposal, which is the creation of a second advocate position (to enable, in particular,

proper attention to the situation of Aboriginal and Torres Strait Islander children and young people in detention).

Elsewhere in this letter there is discussion that foreshadows consideration of further funding to meet emerging needs. For example, Attachment 6 identifies additional activities that will be created, and would need to be resourced, for a new function such as OPCAT oversight of additional places of youth detention as part of the National Preventative Mechanism (see *Issue 3* above).

ISSUE 6 - Detention as a form of alternative care

It is noteworthy that my mandate and functions in the TCV role overlap but are not totally consistent with my mandate and functions as Guardian for Children and Young People under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* (CYPOAB Act). This leads to potential tensions between these two statutory positions.

For example, s.26(4) of the CYPOAB Act provides that the Guardian's responsibilities for children and young people in *alternative care* extends to "care provided in a detention facility for a child who is held there in lawful detention". Therefore, a core Guardian function under s.26(1)(a) of that Act relates to children and young people in the training centre—

(a) to promote the best interests of children under the guardianship, or in the custody, of the Minister, and in particular those in alternative care

The Minister of reference in this context is the Minister for Child Protection. I must therefore report under separate pieces of legislation to different Ministers about the "care" of the same group of children and young people.

As a further example, in my role as Guardian, I have a specific responsibility with respect to the Minister for Child Protection in relation to another function set out in s.26(1)(e) of the CYPOAB Act -

(e) to inquire into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care provided for children in alternative care

I do not fully understand the implications of this dual statutory coverage at this stage.

I trust that this letter and attachments provide you with a comprehensive sense of some major strategic issues, the management of which will affect my capacity to meet Parliament's intention for the establishment and ongoing operation of the TCV role.

I therefore seek and look forward to an urgent meeting with you to discuss how to resolve the matters I raise in this letter.

Please contact me if you require further information about any of these matters.

Please note that your staff can also contact my Principal Policy Officer, Alan Fairley, on Clause 6(1) or at alan.fairley@gcyp.sa.gov.au

Yours sincerely

Penny Wright

Training Centre Visitor

Penny Ward

Hockings, Amanda (DHS)

From: Hancock, Janette (DHS)

Sent: Thursday, 27 September 2018 9:58 AM

To: Mets, Joanne (DHS)

Subject: FW: My Meeting with the Minister today

Hi Jo

Please add this email as well

Thanks

Dr Janette Hancock
Chief of Staff
Minister for Human Services
Department of Human Services

Tel: 08 8204 1958 Mob: Clause 6(1)

Email: Janette.Hancock@sa.gov.au



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From: Wright, Penny (GCYP)

Sent: Thursday, 27 September 2018 9:56 AM

To: Hancock, Janette (DHS) < Janette. Hancock@sa.gov.au>

Subject: RE: My Meeting with the Minister today

Thank you Janette,

It was good to be able to meet you and Zoe yesterday and I appreciated the time you all made available.

I acknowledge that some of the issues we've raised, around the scope of my functions and powers, are complex. I am interested in being as efficient as possible in allowing for the possibility/probability that the TCV will have the NPM function for places of detention for children and young people under OPCAT, within a few years. That's one of the reasons for our suggestion that being able to expand the mandate by way of regulation is an option worth considering.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 4 East, 50 Grenfell Street, Adelaide SA 5000 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au | Fax: +61 8 8226 8577

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A model charter of rights for children and young people detained in youth justice facilities

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From: Hancock, Janette (DHS)

Sent: Thursday, 27 September 2018 9:34 AM

To: Wright, Penny (GCYP)

Subject: RE: My Meeting with the Minister today

Thank you Penny for providing the original budget bid and for meeting with us yesterday.

We will go through the points you've raised below and will arrange another meeting to discuss further.

Good luck with finalising your annual report.

Kind regards Janette

Dr Janette Hancock Chief of Staff **Minister for Human Services** Department of Human Services

Tel: 08 8204 1958 Mob: Clause 6(1)

Email: Janette.Hancock@sa.gov.au



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From: Wright, Penny (GCYP)

Sent: Wednesday, 26 September 2018 1:48 PM

To: Hancock, Janette (DHS) < Janette. Hancock@sa.gov.au >

Subject: My Meeting with the Minister today

Dear Janette,

Thank you to you and the Minister for meeting with me today.

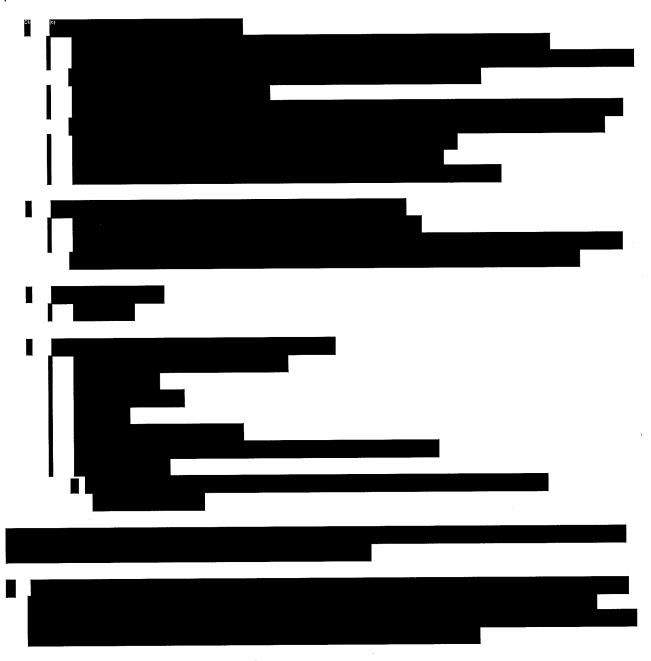
I confirm that I particularly wished to draw two matters to the Minister's attention.

One was the implications of the unsuccessful bid for additional funding for the TCV Program by the Youth
Justice Directorate in this year's budget. The current funding provides for 2.4 FTE staff to establish and operate
the TCV Program and \$43,000 for Goods and Services (ie all other costs). Failing to secure the additional funding
will compromise my ability to fulfil my functions as Training Centre Visitor this financial year and into the future.

As you expressed some doubt that the costings in the bid may not have been clear or may have been subject to change, I attach the budget submitted to Youth Justice and, ultimately, Treasury, for your information. You will see it is detailed and purports to be: "a realistic budget if the intention is to meet Parliament's intentions for the TCV Program." The only unknown in terms of future costs is the implementation of OPCAT, which will need to be accommodated when, and if, the TCV is appointed as part of the National Preventative Mechanism in relation to the detention of young people. That is a decision yet to be made by government down the track.

Youth Justice already have a copy of this budget document. They had indicated they were supporting this increased funding to enable the TCV Program to operate effectively.

As we discussed in our meeting, the implications of the failure to secure this additional funding are clear and are having an effect right now as we review the outcomes of the pilot 10 week visiting program and determine what is possible in the future:



I look forward to resolving these outstanding matters as soon as possible.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People

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A model charter of rights for children and young people debined in youth justice facilities

Hockings, Amanda (DHS)

From:

McDonald, Mardy (GCYP)

Sent:

Wednesday, 19 December 2018 2:38 PM

To:

AGD:Minister Wingard

Cc:

DHS:Minister for Human Services

Subject:

Letter to the Minister of Police, Emergency Services and Correctional Services from Penny Wright

re: Request for information under Section 15(1)

Attachments:

2018-12-19 Letter to the Minister of Police, Emergency Services and Correctional Services from

Penny Wright re Request for information under Section 15.pdf

Categories:

Printed

Dear Minister,

Please find attached a letter from Penny Wright, Training Centre Visitor, for your attention.

Kind Regards,

Mardy McDonald | Office Manager

Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 4 East, 50 Grenfell Street, Adelaide SA 5000 Ph: +61 8 8226 8578 | Email: Mardy.McDonald2@sa.gov.au | Fax: +61 8 8226 8577 www.gcyp.sa.gov.au | Follow us on twitter

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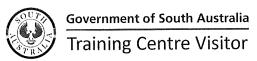
We wish you a happy & peaceful festive season







We acknowledge Aboriginal people as the traditional owners of this land, their living culture and their unique role in the life of the State.



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The Hon. Corey Wingard MP
Minister for Police, Emergency Services and Correctional Services
GPO Box 668
Adelaide SA 5001

cc: Hon. Michelle Lensink MLC, Minister for Human Services

19 December 2018

Dear Minister Wingard

Request for information under Section 15(1) of the Youth Justice Administration Act 2016

I am writing to request the provision of documentation relevant to the exercise of my functions as Training Centre Visitor (TCV) under the *Youth Justice Administration Act 2016* (the Act) (and as related to the *Young Offenders Act 1993*).

My independent statutory responsibilities under section 14 of the Act involve visiting and inspecting the Adelaide Youth Training Centre (AYTC), promoting the best interests of residents and advocating to promote the proper resolution of issues relating to the care, treatment or control of residents. I also have inquiry and investigative powers.

Establishment work for the Training Centre Visitor Program is well underway. In that context my staff have just concluded a pilot Visiting Program and Review of Records. The first formal Inspection of the AYTC will be undertaken in 2019.

I have been undertaking scoping work and I am now examining agreements that bear upon the quality of care, treatment or control of residents or the management of the AYTC, as is necessary for me to fulfil my statutory responsibilities (for example: MOAAs with South Australia Police, the Department for Education, the Courts Administration Authority, and the Department for Correctional Services). I respect, of course, the need for confidentiality about the contents of these documents.

I am seeking to peruse a particularly important agreement, being the contract under which G4S provides services to young people who are subject to the two Acts identified above. The Department of Human Services has advised that they are unable to forward a copy of that agreement because it has been made between your department and G4S.

I am therefore requesting a copy of that agreement from you, together with any ancillary documentation, pursuant to my powers under Section 15(1) of the *Youth Justice Administration Act* 2016 which provides —

A government or non-government organisation that is involved in the provision of services under this Act or the Young Offenders Act must, at the Training Centre Visitor's request, provide the Visitor with information relevant to the exercise of the Visitor's functions.

The same confidentiality arrangements will apply as those in place for agreements made under the authority of the Minister for Human Services.

I am available to discuss this matter with you should that be helpful. Your staff also may wish to contact my Principal Policy Officer, Alan Fairley, on 8226 8570 or at alan.fairley@gcyp.sa.gov.au

Your assistance in this matter will be much appreciated. Access to the requested information will help me develop further policies and principles to underpin a Training Centre Visitor Program that honours my statutory responsibilities and supports effective oversight of the circumstances of children and young people in detention within South Australia's youth justice system.

Yours sincerely,

Penny Wright

Training Centre Visitor

Document 16



Government of South Australia

Minister for Human Services

Level 12 South 1 King William Street Adelaide SA 5000 GPO Box 2832 Adelaide SA 5001 DX 115 Tel 08 8463 6560 Fax 08 8463 4480

18MHS/0834

Ms Penny Wright Training Centre Visitor Guardian, Office of the Guardian for Children and Young People GPO Box 2281 ADELAIDE SA 5001

Dear Ms Wright /

Thank you for providing me with the Training Centre Visitor annual report for year ending 30 June 2018.

This report will be tabled in Parliament as per legislative requirements.

Yours sincerely

Hon Michelle Lensink MLC

MINISTER FOR HUMAN SERVICES

10, culle Kendin

Q2/10/2018



From:

Hancock, Janette (DHS)

Sent:

Tuesday, 5 March 2019 7:56 AM

To:

Mets, Joanne (DHS)

Subject:

FW: Training Centre Visitor Program: the case for an increased budget - proposed 2019/2020

budget request attached

Importance:

High

Categories:

Printed

Hi Jo

Can you please file and send to YJ for immediate brief and response – will need it by Friday for my meeting with Michael Homden.

Thanks

Dr Janette Hancock Chief of Staff **Minister for Human Services** Department of Human Services

Tel: 08 8204 1958

Mob:

Email: Janette.Hancock@sa.gov.au



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From: Wright, Penny (GCYP) < Penny. Wright@sa.gov.au>

Sent: Monday, 4 March 2019 5:29 PM

To: Hancock, Janette (DHS) < Janette. Hancock@sa.gov.au>

Subject: Training Centre Visitor Program: the case for an increased budget - proposed 2019/2020 budget request

attached

Importance: High



Dear Janette,

Please find attached an updated budget request for the resourcing of the Training Centre Visitor role: "Training Centre Visitor Program: the case for an increased budget," for the attention of Minister Lensink.

As well as explaining the need for more resourcing to enable me to do my job, it also shows that the current budget was only ever an interim budget for the staged allocation of resources. You asked me for any documents that prove this is the case and I have attached the email from the (then) Guardian, Amanda Shaw, to the Director of Youth Justice, Sue Barr, dated 25 January 2017, (pages 7 and 8) that sets this out. The Department never objected to, or disavowed, her characterisation of the agreed budget in this way.

Although I understand that most aspects of government in South Australia are facing a constrained budgetary environment, it is my duty to advise the Minister about what is required to adequately fulfil my statutory functions as Training Centre Visitor to a minimum but adequate level. Not only do I have statutory responsibilities but the Minister and the Department are obviously responsible for the proper administration of the Youth Justice Administration Act 2016 and are entitled to know if there are impediments to my functions which may impact on the information I can bring to their attention.



I am happy to discuss anything raised in this request in more detail with you, the Department or the Minister. I would be grateful if the Minister could consider this request as a matter of urgency and advise me as to whether she is willing to support it, within fourteen days. I intend to provide it to the Executive Director of Youth Justice later this week.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People

Level 3, 111 Gawler Place, Adelaide SA 5000 | GPO Box 2281, Adelaide SA 5001 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au

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A model charter of hights for children and young people detained in youth justice lacidies



Minister for Human Services

19MHS/0151

Ms Penny Wright
Training Centre Visitor
Guardian, Office of the Guardian for Children and Young People
GPO Box 2281
ADELAIDE SA 5001

Level 12 South 1 King William Street Adelaide SA 5000 GPO Box 2832 Adelaide SA 5001 DX 115 Tel 08 8463 6560 Fax 08 8463 4480

Dear Ms Wright,

As you are aware, the 2019/20 State budget has faced significant challenges with an estimated reduction of \$2.1 billion in GST revenues.

Despite this, the Marshall Liberal Government is delivering a massive infrastructure program and record investments in education and regional roads.

In the Human Services portfolio, our budget is focused on maximising the benefits of the NDIS, protecting women, children and families from harm, and providing efficient services.

Of note, we are investing in protecting women, children and families from harm via the new Child and Family Support system, which includes:

- a \$2.5 million two-year Intensive Family Support Program trial, specifically developed for South Australian families with children at risk of child abuse or neglect who may otherwise go on to enter out-of-home-care;
- \$ 2.3 million to extend the Child and Family Assessment and Referral Networks, established in response to the Child Protection Systems Royal Commission Report; and
- \$810,000 in new funding to deliver an action plan designed to improve outcomes for Aboriginal families in the Port Adelaide area.

We are also continuing our ongoing commitment to address the scourge of domestic violence by providing an additional \$383,000 towards ensuring the Domestic Violence Disclosure Scheme remains available for people at risk.

I'm sure you will agree that these commitments will bring real and tangible outcomes for the people of South Australia and help strengthen the community services sector.

Given the estimated GST revenue reductions, the Government is not able to provide additional funding to the Training Centre Visitor Scheme as per your recent budget funding submission.

I look forward to working with you into the future.

Yours sincerely

Hon Michelle Lensink MLC

MINISTER FOR HUMAN SERVICES

Micuelle denoina

From:

Wright, Penny (GCYP)

Sent:

Thursday, 7 March 2019 5:40 PM DHS:Minister for Human Services

To: Cc:

Hancock, Janette (DHS)

Subject:

Training Centre Visitor Report for the attention of the Minister for Human Services

Attachments:

Final Report of Training Centre Visitor's 2018 Pilot Visiting Program & Review of Records.pdf

Categories:

Printed

Dear Minister Lensink,

Please find attached the Report of the TCV 2018 Pilot Visiting Program and Review of Records for your attention. The Pilot program was run over a period of 10 weeks from July to September, 2018. The experience from this pilot is being used to design my ongoing visiting, advocacy and inspection programs for 2018/2019/2020.

As a courtesy I am providing you with this document before publishing it next week. I hope it gives you an indication of the work of the Training Centre Visitor and staff and the degree to which thoughtful oversight will contribute to better outcomes for the young residents of the Adelaide Youth Training Centre. It has taken some time to finalise this report, including the incorporation of feedback from the AYTC. In the meantime, visits, advocacy and work towards an inspection have continued.

I am also taking the liberty of attaching a link to a short but informative article published on the ABC news site on Tuesday, which discusses the role of youth detention oversight and the imminent role of OPCAT. https://www.abc.net.au/news/2019-03-04/don-dale-riot-avoided-national-standard-youth-detention-opcat/10865686

I am very happy to discuss the contents of my report with you.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People



Please note our new address – from 4 February 2019!

Level 3, 111 Gawler Place, Adelaide SA 5000 | GPO Box 2281, Adelaide SA 5001 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au

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A model charter of rights for children and young people detained in youth justice location

From:

Hancock, Janette (DHS)

Sent:

Friday, 15 March 2019 9:25 AM

To:

Wright, Penny (GCYP); DHS:Minister for Human Services

Subject:

RE: Training Centre Visitor Report for the attention of the Minister for Human Services - and

Reporting to Minister generally

Hi Penny

As the report has been determined for the purposes of s19, it will be tabled in parliament within the required 6 sitting days.

Kind regards Janette

Dr Janette Hancock Chief of Staff **Minister for Human Services** Department of Human Services

Mob:

Tel: 08 8204 1958

Email: Janette.Hancock@sa.gov.au



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From: Wright, Penny (GCYP) < Penny. Wright@sa.gov.au>

Sent: Thursday, 14 March 2019 12:27 PM

To: DHS:Minister for Human Services <DHSMinisterforHumanServices@sa.gov.au>

Cc: Hancock, Janette (DHS) < Janette. Hancock@sa.gov.au>

Subject: Re: Training Centre Visitor Report for the attention of the Minister for Human Services - and Reporting to

Minister generally Importance: High

Dear Minister Lensink,

I am following up on my email of last week, in which I attached my Report of the Pilot Visiting Program and Review of Records.

I had been intending to publish this Report this week (as I advised you in my email). The work of the Training Centre Visitor is of public interest and the rationale for the creation of the position was to ensure transparency and accountability (as highlighted in the (then) Minister's second reading speech in introducing the Youth Justice Administration Act 2016).

However, you may intend to lay the report before the parliament, pursuant to sections 18 or 19 of the Act. Although these provisions are not totally clear, I think that this particular report is of the nature of an 'other' report 'on any matter arising out of the performance of the Visitor's functions under this Act' and falls within section 19. In such a case you are required to lay it before the parliament 'within 6 sitting days'.

Because of some ambiguity in the wording of the provisions, I am currently seeking Crown Law advice about what written information from the Training Centre Visitor to the Minister constitutes a 'report' and what is the difference between a 'special report' and an 'other report'. I hope to receive that advice by the end of March.

In the meantime, if you are intending to lay this report before the parliament, I would be grateful if you can confirm that, and I will not publish it until you have done so.

Thank you, Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People



Please note our new address - from 4 February 2019!

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From: Wright, Penny (GCYP)

Sent: Thursday, 7 March 2019 5:40 PM **To:** DHS:Minister for Human Services

Cc: Hancock, Janette (DHS)

Subject: Training Centre Visitor Report for the attention of the Minister for Human Services

Dear Minister Lensink,

Please find attached the Report of the TCV 2018 Pilot Visiting Program and Review of Records for your attention. The Pilot program was run over a period of 10 weeks from July to September, 2018. The experience from this pilot is being used to design my ongoing visiting, advocacy and inspection programs for 2018/2019/2020.

As a courtesy I am providing you with this document before publishing it next week. I hope it gives you an indication of the work of the Training Centre Visitor and staff and the degree to which thoughtful oversight will contribute to better outcomes for the young residents of the Adelaide Youth Training Centre. It has taken some time to finalise

this report, including the incorporation of feedback from the AYTC. In the meantime, visits, advocacy and work towards an inspection have continued.

I am also taking the liberty of attaching a link to a short but informative article published on the ABC news site on Tuesday, which discusses the role of youth detention oversight and the imminent role of OPCAT. https://www.abc.net.au/news/2019-03-04/don-dale-riot-avoided-national-standard-youth-detention-opcat/10865686

I am very happy to discuss the contents of my report with you.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People



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for Children and Young People in Care





A model charter of rights for children and young people detained in youth justice facilities

From:

Wright, Penny (GCYP)

Sent:

Friday, 17 May 2019 5:16 PM DHS:Minister for Human Services

To: Cc:

Hancock, Janette (DHS)

Subject:

GCYP's Snapshot of South Australian Aboriginal Children and Young People in Care and/or

Detention from the Report on Government Services 2019

Attachments:

2019-05-08 GCYP & TCV Snapshot of South Australian Aboriginal Children and Young People in Care and or Detention from the Report on Government Services 2019.pdf; 2019-05-17 Memo - TCV to MHS to accompany ROGS 2019 snapshot of SA Aboriginal Children and Young People in

Care and Detention.doc

Categories:

Printed

Dear Minister Lensink,

I attach my Office's annual Snapshot of SA Aboriginal Children and Young People in Care and/or Detention from the ROGS 2019.

Please note that we will be releasing the report publically on Tuesday, 21st May 2019.

Best wishes,

Penny Wright

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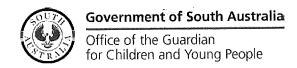
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A model charter of rights for children and young people detained in youth justice leafities



Level 3 111 Gawler Place Adelaide SA 5000

GPO Box 2281 Adelaide SA 5001 DX115

Tel 08 8226 8570 gcyp@gcyp.sa.gov.au www.gcyp.sa.gov.au

Memorandum

□ Urgent	✓ For Information □ Please Comment □ Please Reply □ Please Recycle
Subject:	Expenditure on South Australian Aboriginal and Torres Strait Islander Children and Young People in Care and/or Detention from the Report on Government Services 2019
Date:	17 May 2019
cci	
From:	Training Centre Visitor
То:	Minister for Human Services

Dear Minister,

Enclosed is this year's summary report of expenditure on South Australian Aboriginal and Torres Strait Islander Children and Young People in Care and/or Detention based on the Productivity Commission's Report on Government Services 2019.

This report contains the following information that is particularly pertinent to Youth Justice:

- the number of Aboriginal females in detention is considerably lower than the number of Aboriginal males, but they comprise a very high proportion of all detained girls and young women
- the daily average proportion of Aboriginal compared to non-Aboriginal 10 to 17 year olds in detention (66 and 34 per cent respectively) in 2017-18 was slightly greater than the national average (57 and 43 per cent respectively)
- the rate of Aboriginal 10 to 17 year olds in detention per 10,000 young people in South Australia declined in 2017-18 when compared to the previous year (32.8 from 44.3). The rate is now slightly lower than the national average of 35.2

- the average rate of 10 to 17 year olds in detention per 10,000 young people in South Australia was 32.8 for Aboriginal compared with 0.8 for non-Aboriginal children and young people in 2017-18. This means that Aboriginal children and young people are 41 times more likely to be in detention than non-Aboriginal children and young people
- there has been a relatively consistent relationship between the average daily number of Aboriginal 10 to 17 year olds under community based supervision orders compared to those who are held in detention
- there has been a recent convergence of spending per child or young person aged 10 to 17 years in the population on detention-based youth justice services between South Australia and the national average

The report will be released on 21 May 2019.

Please let me know if you have any concerns or require further information.

Yours sincerely

Penny Wright

Training Centre Visitor

Penny Chings

Encl: Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention from the *Report on Government Services 2019*

From:

Wright, Penny (GCYP)

Sent:

Monday, 20 May 2019 11:18 AM

To:

Hancock, Janette (DHS)

Cc:

DHS:Minister for Human Services; Booth, Vikki (DHS)

Subject:

RE: GCYP's Snapshot of South Australian Aboriginal Children and Young People in Care and/or

Detention from the Report on Government Services 2019

Good morning, Janette.

I appreciate your need to clarify this, and in future I will include advice as to my views about the tabling requirements of 'reports' or similar documents that I am giving the Minister.

It is my view that this document is a 'report' which is subject to tabling by both the Minister for Human Services and the Minister for Child Protection because it fulfils the criteria for tabling of reports under both the Youth Justice Administration Act 2016 and the Children and Young People (Oversight and Advocacy Bodies) Act 2016, as follows -

- To the extent that it analyses data pertaining to Aboriginal young people in detention it is a report pursuant to section 19(1) of the *Youth Justice Administration Act 2016* ie "on [a] matter arising out of the Visitor's functions", namely promoting the best interests of the residents of the training centre, in the context of section s.14(2)(b)(ii) that the Visitor must pay particular attention to the needs and circumstances of residents of a training centre who are Aboriginal or Torres Strait Islander youths.
- To the extent that it analyses data pertaining to Aboriginal young people in 'care' it is an 'other' report pursuant to section 29(2) of the Children and Young People (Oversight and Advocacy Bodies) Act 2016 ie "promoting the best interests" and "monitoring the circumstances" of children under guardianship or in the custody of the Chief Executive of DCP.

Please don't hesitate to contact me if you need any further information.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People

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From: Hancock, Janette (DHS)

Sent: Monday, 20 May 2019 10:27 AM

To: Wright, Penny (GCYP) <Penny.Wright@sa.gov.au>; DHS:Minister for Human Services

<DHSMinisterforHumanServices@sa.gov.au>
Cc: Booth, Vikki (DHS) <Vikki.Booth@sa.gov.au>

Subject: RE: GCYP's Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention

from the Report on Government Services 2019

Dear Ms Wright,

Thank you for providing the document titled 'Snapshot of SA Aboriginal Children and Young People in Care and/or Detention from the Report on Government Services 2019' to the Office of the Minister for Human Services.

You have indicated that you intend to release this report publicly on 21 May. However, as you refer to this as a 'report', we would appreciate it if you could please provide clarity on the nature of the report, so that we can ascertain whether it is required to be tabled in parliament prior to release. That is, does this report fall under your reporting obligations as Guardian for Children and Young People under Part 3 section 29 (2) of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* and/or a 'special' or 'other' report in your Training Centre Visitor role under Part 3 section 18 (3) or 19 (1) of the *Youth Justice Administration Act 2016*?

Please advise as soon as possible so that we can ensure that appropriate processes are followed.

Thanks for your assistance.

Kind regards Janette

Dr Janette Hancock Chief of Staff **Minister for Human Services** Department of Human Services Tel: 08 8204 1958

Mob: 08 8204 1958

Email: Janette.Hancock@sa.gov.au



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From: Wright, Penny (GCYP) < Penny.Wright@sa.gov.au>

Sent: Friday, 17 May 2019 5:16 PM

To: DHS:Minister for Human Services < DHSMinisterforHumanServices@sa.gov.au >

Cc: Hancock, Janette (DHS) < Janette. Hancock@sa.gov.au>

Subject: GCYP's Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention from

the Report on Government Services 2019

Dear Minister Lensink,

I attach my Office's annual Snapshot of SA Aboriginal Children and Young People in Care and/or Detention from the ROGS 2019.

Please note that we will be releasing the report publically on Tuesday, 21st May 2019.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People

From:

DHS:Minister for Human Services

Sent:

Wednesday, 3 July 2019 10:11 AM

To:

Phoenix, Melissa (GCYP)

Subject:

FW: Invitation to launch of OGCYP new premises - 11/7

Good morning,

Thank you for your email and invitation for Minister Lensink.

Unfortunately, the Minister is unable to attend due to prior commitments.

The Minister sends her best wishes for a successful event.

We look forward to hearing from you again soon.

Kind Regards,

Correspondence Team
Minister for Human Services
Department of Human Services



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From: Wright, Penny (GCYP) < Penny. Wright@sa.gov.au>

Sent: Thursday, 27 June 2019 3:51 PM

To: DHS:Minister for Human Services < DHSMinisterfor Human Services@sa.gov.au>

Subject: Invitation to launch of OGCYP new premises - 11/7

Dear Minister Lensink,

We have now settled in to our new premises and we hope you can join us for our 'official' launch.

This is an opportunity for us to thank the many people who have helped with the move or who otherwise assist us in our work, and to show off our wonderful new mural, created by children and young people with the help of artist, Fran Callen.

Please RSVP by 4 July 2019 for catering purposes: Melissa.Phoenix2@sa.gov.au or on 8226 8570.

Best wishes,

Penny Wright
Guardian | Training Centre Visitor | Child and Young Person's Visitor
Office of the Guardian for Children and Young People

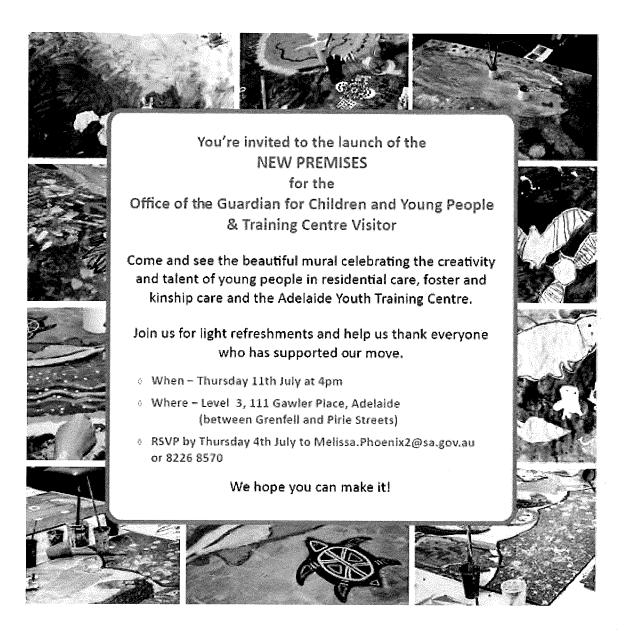
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A model charter of rights for children and young people detained in youth justice feedlies



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Wright, Penny (GCYP)

Sent: To: Thursday, 27 June 2019 3:51 PM DHS:Minister for Human Services

Subject:

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Categories:

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Best wishes,

Penny Wright

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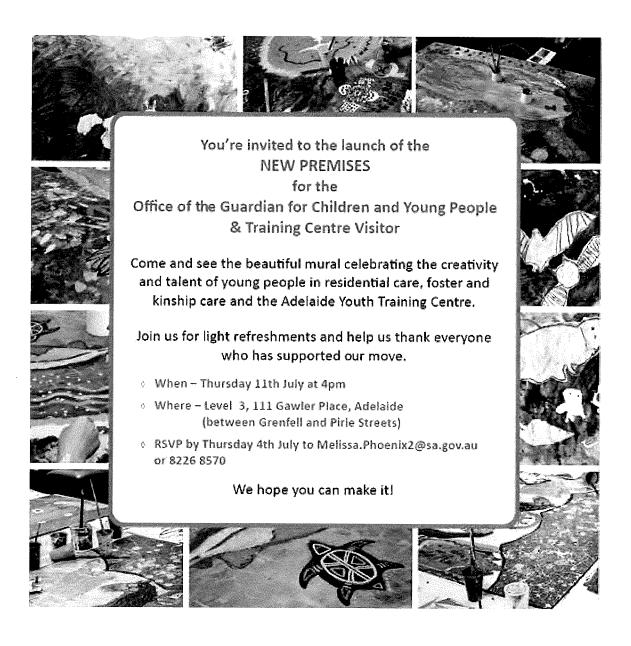
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A model charter of rights for children and young people detained in youth justice locities



From:

DHS:Minister for Human Services Thursday, 11 July 2019 3:54 PM

Sent: To:

Flynn, Jessica (GCYP)

Subject:

RE: Controlled Substances (Youth Treatment Orders) Amendment Bill 2018

Attachments:

2019-07-09 Letter from the TCV to the Minister for Human Services - Youth Treatment

Orders.pdf

Dear Ms Flynn

On behalf of Hon Michelle Lensink MLC, Minister for Human Services, thank you for your email dated 9 July 2019 regarding Controlled Substances (Youth Treatment Orders) Amendment Bill 2018.

While the Minister appreciates receiving your email, I advise that this matter falls within the portfolio responsibility of the Hon Stephen Wade MLC, Minister for Health and Wellbeing and your correspondence has been forwarded to that office for consideration.

Should you have any further queries in relation to your correspondence, please contact the office of the Minister for Health and Wellbeing on 08 8463 6270 or ministerforhealth@sa.gov.au.

Kind regards

Correspondence Team Minister for Human Services Department of Human Services



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From: Flynn, Jessica (GCYP) < Jessica. Flynn@sa.gov.au>

Sent: Tuesday, 9 July 2019 2:26 PM

To: DHS:Minister for Human Services < DHSMinisterforHumanServices@sa.gov.au>

Cc: 'hurtlevale@parliament.sa.gov.au' <hurtlevale@parliament.sa.gov.au>
Subject: Controlled Substances (Youth Treatment Orders) Amendment Bill 2018

Good afternoon

Please find attached a letter from Penny Wright, Training Centre Visitor to the Minister for Human Services.

Feel free to contact me in the first instance if you have any questions or need any clarification.

Kind regards,

Jessica Flynn | Senior Policy Officer
Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 3, 111 Gawler Place, Adelaide SA 5000 Ph: +61 8 8226 8570 | Email: jessica.flynn@gcyp.sa.gov.au

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Charter Charter at **Rights**





From:

Flynn, Jessica (GCYP)

Sent: To:

Tuesday, 9 July 2019 2:26 PM **DHS:Minister for Human Services**

Cc:

'hurtlevale@parliament.sa.gov.au'

Subject:

Controlled Substances (Youth Treatment Orders) Amendment Bill 2018

Attachments:

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Categories:

Printed

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Jessica Flynn | Senior Policy Officer Office of the Guardian for Children and Young People

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Chamoiori for the



for Children and Young People in Care







Level 3, 111 Gawler Place Adelaide SA 5000 GPO Box 2281 Adelaide SA 5001 DX115 Tel 08 8226 8570 Fax 08 8226 8577 gcyp@gcyp.sa.gov.au www.gcyp.sa.gov.au

The Hon Michelle Lensink MLC Minister for Human Services GPO Box 2832 Adelaide SA 5000

Cc: Nat Cook MP, Shadow Minister for Human Services

9 July 2019

Dear Minister Lensink,

Controlled Substances (Youth Treatment Orders) Amendment Bill 2018

I have previously raised with relevant Ministers my concerns about the *Controlled Substances (Youth Treatment Orders) Amendment Bill 2018.* The recent carriage of an amended form of that Bill in the Legislative Council renews and draws attention to these concerns in a different context.

My previous position was articulated primarily through my Guardian role for children and young people in alternative care as prescribed by the Children and Young People (Oversight and Advocacy Bodies) Act 2016.

I am now raising immediate concerns with you in your capacity as Minister responsible for the Adelaide Youth Training Centre under the *Youth Justice Administration Act 2016*. In my role of Training Centre Visitor, I promote and protect the interests and rights of children and young people on remand or sentenced to detention in the Adelaide Youth Training Centre.

- The Bill passed by the Legislative Council, if eventually carried into law, initially will mean that youth treatment orders can only be made in relation to children and young people who are detained in a training centre.
- 2. However, that Bill assigns oversight functions to me as Guardian for Children and Young People, not Training Centre Visitor. As noted during parliamentary debate, I previously contacted the Shadow Minister for Health and Wellbeing to advise that the Training Centre Visitor role is better suited to the oversight function for residents in a secure facility. Hopefully this is rectified in the legislative process between the Houses.²

¹ As set out in Filed Amendment Maher (1) Amendment No. 5, which was carried, and subsequently amended sub-clause 54L.

² As was assured by the Hon Kyam Maher (South Australia, Parliamentary Debates, Legislative Council, Tuesday 2 July 2019, pages 3977 and 3978).

- 3. I have written separately to the Minister for Health and Wellbeing expressing concern that current Adelaide Youth Training Centre policy, practice, and operational capacity is not ready to respond to the special needs of children and young people in secure detention under a youth treatment order. I am seriously worried that children and young people on such orders will not have access to the necessary range of qualified and intensive supports they need.
- 4. Section 13 of the *Youth Justice Administration Act 2016* sets out that the Minister must provide the Training Centre Visitor with the staff and other resources that she reasonably needs to exercise the Visitor's functions. It will be necessary to discuss with you the resourcing implications of this additional mandate if this oversight role is assigned to me.

I am also writing to the Ministers for Health and Wellbeing, and Child Protection about this and related matters.

It is critically important that I and other key stakeholders are given access to information about the model of care that will apply to affected children and young people detained on youth treatment orders in the youth justice system.

Please let me know if you require any further information about, or wish to discuss, this feedback. Your staff can also contact my Senior Policy Officer, Ms Jessica Flynn for this purpose on 08 8226 8570 or at jessica.flynn@gcyp.sa.gov.au.

Thank you for the opportunity to raise these concerns, and I look forward to having an ongoing dialogue with you as this Bill progresses.

Yours sincerely

leny Wind

Penny Wright | Guardian and Training Centre Visitor
Office of the Guardian for Children and Young People

From:

Flynn, Jessica (GCYP)

Sent:

Friday, 19 July 2019 3:55 PM DHS:Minister for Human Services

To: Cc:

'kaurna@parliament.sa.gov.au'

Subject:

Controlled Substances (Youth Treatment Orders) Amendment Bill 2018

Attachments:

2019-07-19 TCV to Minister for HS - proposed amendments to YTO Bill cl 54L.pdf

Categories:

Printed

Good afternoon

Please find attached a letter from Penny Wright, Guardian for Children and Young People and Training Centre Visitor to the Minister for Human Services.

Feel free to contact me in the first instance if you have any questions or need any clarification.

Kind regards,

Jessica Flynn | Senior Policy Officer Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 3, 111 Gawler Place, Adelaide SA 5000 Ph: +61 8 8226 8570 | Email: jessica.flynn@gcyp.sa.gov.au

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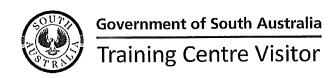
We acknowledge and respect Aboriginal People as the traditional owners and custodians of the land we live and work on, their living culture and their unique role in the life of South Australia.



for Children and Young People in Care







The Hon Michelle Lensink MLC Minister for Human Services GPO Box 2832 Adelaide SA 5000

Cc: Chris Picton MP, Shadow Minister for Health and Wellbeing

Michelle

Level 3, 111 Gawler Place Adelaide SA 5000 GPO Box 2281 Adelaide SA 5001 DX115 Tel 08 8226 8570 Fax 08 8226 8577 gcyp@gcyp.sa.gov.au www.gcyp.sa.gov.au

19 July 2019

Dear Minister Lensink,

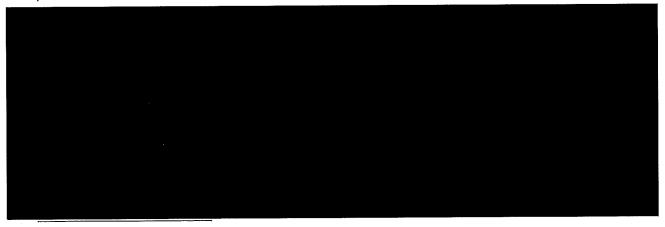
Controlled Substances (Youth Treatment Orders) Amendment Bill 2018 - sub-clause 54L

As you would be aware, this Bill has now been passed in the Legislative Council and is soon to be debated in the House of Assembly.

As this approach to managing drug dependence for some children in the community clearly has the overall support of the parliament, I am committed to helping achieve the most effective and workable legislation possible.

For this reason, I am following up my correspondence to you, dated 9 July 2019, particularly in relation to subclause 54L of this Bill, which names the Guardian for Children and Young People as having the relevant oversight function for the children and young people who are detained under youth treatment orders.

As I have previously advised, it is more appropriate for this oversight function to sit with the Training Centre Visitor. During parliamentary debate, it was assured that this issue would be addressed in the legislative process between the Houses.¹



¹ As was assured by the Hon Kyam Maher (South Australia, Parliamentary Debates, Legislative Council, Tuesday 2 July 2019, pages 3977 and 3978).

These changes are wholly consistent with the other three oversight roles I currently hold.

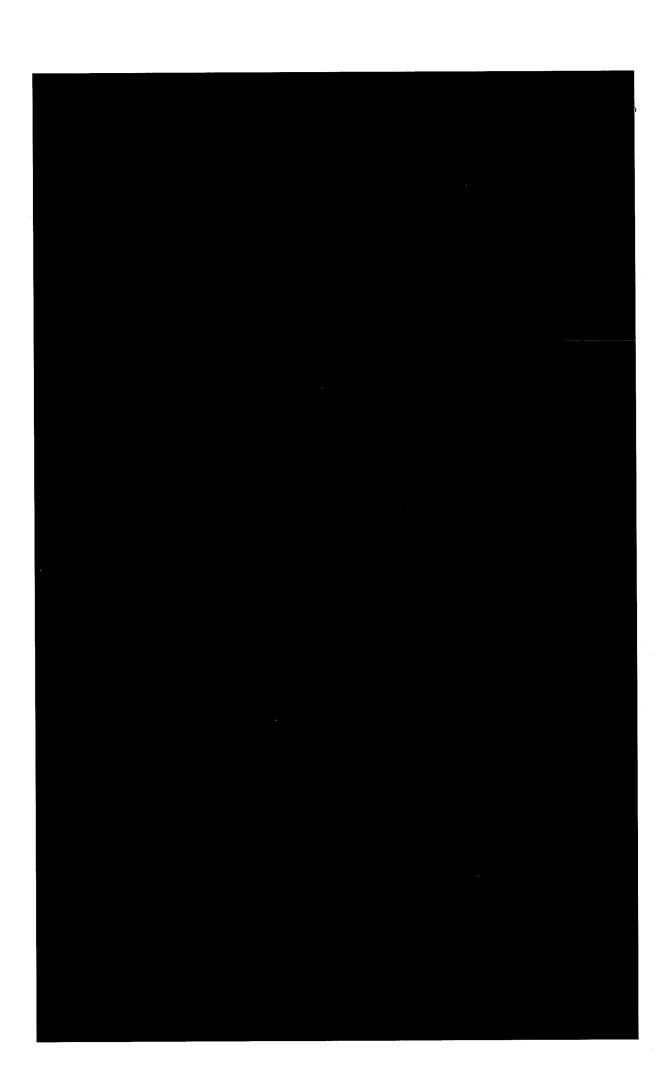
Further details of why I believe these changes must be made are included in the appended document below.

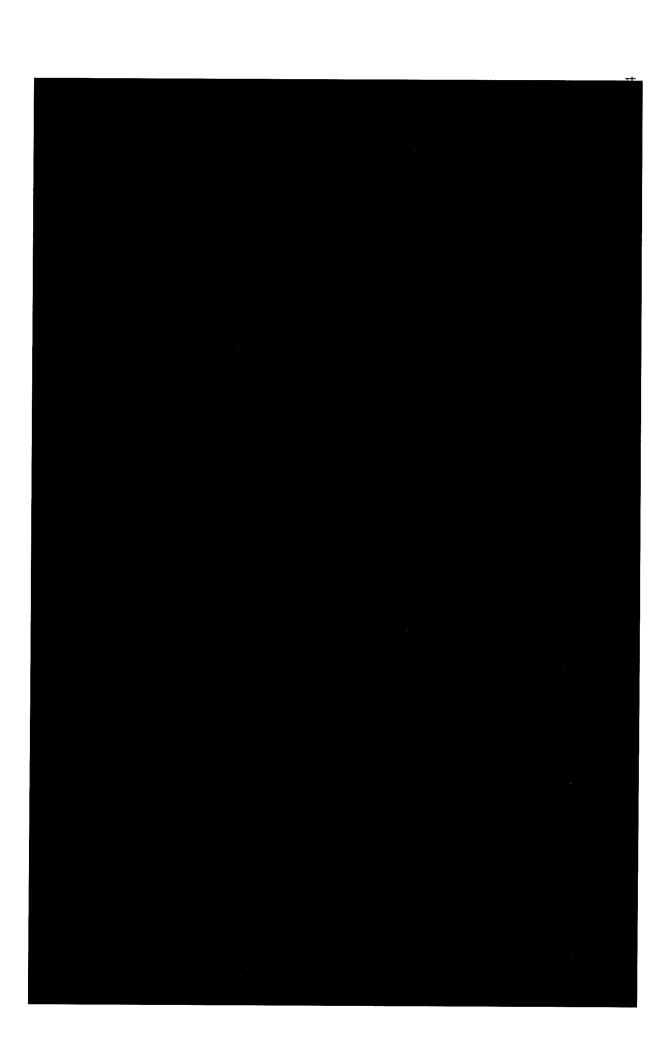
Thank you for the opportunity to raise these concerns, and I am happy to provide any further information you may require. Alternatively, your staff may wish to discuss this feedback with my Senior Policy Officer, Ms Jessica Flynn, on 08 8226 8570 or at iessica.flynn@gcyp.sa.gov.au.

Yours sincerely

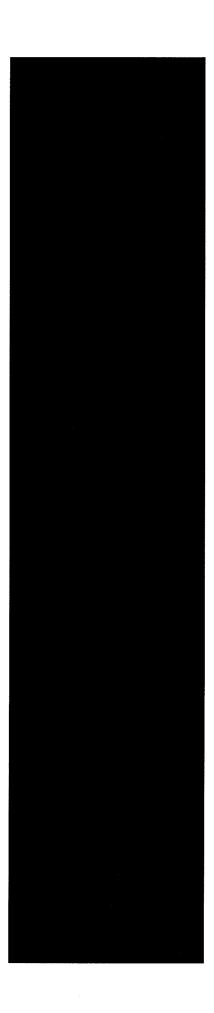
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Penny Wright | Guardian and Training Centre Visitor Office of the Guardian for Children and Young People





³ OPCAT refers to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This is an international agreement ratified by Australia, and is aimed at preventing torture and cruel, inhuman or degrading treatment or punishment in places of detention.





Minister for Human Services

Level 12 South 1 King William Street Adelaide SA 5000 GPO Box 2832 Adelaide SA 5001 DX 115 Tel 08 8463 6560 Fax 08 8463 4480

19MH\$/0681

Ms Penny Wright
Guardian and Training Centre Visitor
Office of the Guardian for Children and Young People
GPO Box 2281
ADELAIDE SA 5001

Dear Ms Wright

Thank you for your letter regarding your proposed amendments to the Controlled Substances (Youth Treatment Orders) Amendment Bill 2018 (the Bill), dated 19 July 2019.

As you would be aware, the Bill is the responsibility of the Minister for Health and Wellbeing.

I appreciate receiving your comments about this issue and I encourage you to discuss your concerns directly with Minister Wade.

I note that an amendment to the *Youth Justice Administration Act 2016* would be required to accommodate the amendments you have proposed. I suggest you continue working closely with Minister Wade to develop the most effective approach to oversight of children and young people subject to detention orders under the Bill.

Yours sincerely

Hon Michelle Lensink MLC

Ricuelle Leusin

MINISTER FOR HUMAN SERVICES

1418 /2019

Hon Stephen Wade MLC, Minister for Health and Wellbeing



From:

Wright, Penny (GCYP)

Sent: To:

Saturday, 3 August 2019 5:03 PM **DHS:Minister for Human Services**

Cc:

Hancock, Janette (DHS)

Subject:

2018 TCV Term 4 AYTC Visiting and Review of Records Report

Attachments:

2018 TCV Term 4 AYTC Visiting and Review of Records Report.pdf

Categories:

Printed

Dear Minister Lensink,

Please find attached the 2018 TCV Term 4 AYTC Visiting and Review of Records Report for your attention. It has taken some time to finalise this report due to competing demands on my staff and in order to incorporate feedback from the management of the AYTC and the Directorate of Youth Justice.

I advise that is my view that this report falls within section 19 of the Youth Justice Administration Act 2016. In such a case you are required to lay it before the parliament 'within 6 sitting days'.

I will provide a copy to the Executive Director of Youth Justice, Michael Homden.

Please note that I am on leave between 6 August and 1 September, inclusive, and Belinda Lorek has been appointed Training Centre Visitor in my absence.

I will seek a meeting with you when I return from leave in September to discuss the contents of this report and its recommendations. In the meantime, if you require any further information, please contact Belinda Lorek or Alan Fairley of my office.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People



Please note our new address - from 4 February 2019!

Level 3, 111 Gawler Place, Adelaide SA 5000 | GPO Box 2281, Adelaide SA 5001 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au

www.gcyp.sa.gov.au | Follow us on twitter

We acknowledge and respect Aboriginal People as the traditional owners and custodians of the land we live and work on, their living culture and their unique role in the life of South Australia.



Champion for the



A model charter of rights for children and young people detained in youth justice locities

From:

Rossi, Pina (DHS) on behalf of DHS:Minister for Human Services

Sent:

Monday, 30 September 2019 3:23 PM

To:

Turner, Bianca (GCYP) Acknowledgement

Subject: Attachments:

19MHS_0922 - Report from Penny Wright, Training Centre Visitor (TCV), regarding TCV 2018-19

Annual Report.pdf

19MHS/0922

Good afternoon

On behalf of Hon Michelle Lensink MLC, Minister for Human Services, thank you for the Training Centre Visitor (TCV) 2019-19 Annual Report.

Your correspondence has been brought to the Minister's attention.

Yours sincerely

Correspondence Team Minister for Human Services Department of Human Services



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Government of South Australia

Minister for Human Services

Level 12 South 1 King William Street Adelaide SA 5000 GPO Box 2832 Adelaide SA 5001 DX 115 Tel 08 8463 6560 Fax 08 8463 4480

19MHS/0922

Penny Wright Training Centre Visitor GPO Box 2281 ADELAIDE SA 5000

Dear Ms Wright

Thank you for providing your Training Centre Visitor Annual Report 2018-19.

I note your report highlights some encouraging developments and systems changes in the Adelaide Youth Training Centre – Kurlana Tapa, that directly enhance the wellbeing and safety of residents.

I also acknowledge the Department of Human Services' commitment to review policy and practice, including the use of force and other issues you have raised in your recent reports.

I look forward to further discussing this report with you at our next scheduled meeting.

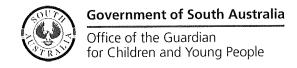
Yours sincerely

Hon Michelle Lensink MLC MINISTER FOR HUMAN SERVICES

Plicuelle Leurink

31/10/2019





Level 4 East Wing 50 Grenfell Street Adelaide SA 5000

GPO Box 2281 Adelaide SA 5001 DX115

Tel 08 8226 8570 Fax 08 8226 8577

gcyp@gcyp.sa.gov.au www.gcyp.sa.gov.au

Memorandum

☐ Urgent	☐ For Review	☐ Please Comment	☐ Please Reply	☐ Please Recycle
Subject:	Islander Children	outh Australian Aboriginal and Young People in Care on Government Services 20	and/or Detention	
Date:	17 April 2018			
cc:				
From:	Training Centre Vi	sitor		
To:	Minister for Huma	an Services	101	

Dear Minister,

Enclosed is this year's summary report of expenditure on South Australian Aboriginal and Torres Strait Islander Children and Young People in Care and/or Detention based on the Productivity Commission's Report on Government Services 2018.

This report contains the following information that is particularly pertinent to Youth Justice:

- Daily average number of Aboriginal and non-Aboriginal 10-17 year olds in detention by jurisdiction, 2015-16
- Daily average rate per 100,000 young people of Aboriginal 10-17 year olds in detention 2013-14 to 2015-16

- Daily average rate per 100,000 young people of Aboriginal 10-17 year olds in detention, 2011-12 to 2015-16, South Australia and Australia
- Daily average rate per 100,000 young people of Aboriginal compared to non-Aboriginal 10-17 year olds in detention 2015-16 by jurisdiction
- Daily average rate per 100,000 young people of Aboriginal compared to non-Aboriginal 10-17 year olds in detention in South Australia, 2011-12 to 2015-16
- Daily average number of Aboriginal 10-17 year olds under community based supervision compared to those in detention South Australia 2011-12 to 2015-16
- Real expenditure per child aged 10-17 years in the population on detention based youth justice services, South Australia compared to Australian average, 2012-13 to 2016-17

The key points of the report in relation to the participation of Aboriginal ten to seventeen year olds in detention-based youth justice supervision in South Australia are:

- the number of young Aboriginal females in detention is considerably lower than the number of young Aboriginal males but they comprise a high proportion of all detained girls and young women
- the daily average proportion of Aboriginal compared to non-Aboriginal 10-17 year olds in detention (58 to 42 per cent) in 2015/16 was similar to the all-Australia average (59.6 to 40.4 per cent) (Chart 13)
- when considered as a proportion per 100,000 young people, the number of Aboriginal 10 to 17 year olds in detention in South Australia has been growing over recent years (Chart 14), with this growth greater than the national average (Chart 15)
- the average rate per 100,000 young people of 10 to 17 year olds in detention in 2015/16 was 459.5 for Aboriginal compared with 15.2 for non-Aboriginal children and young people. This rate differential is a factor of just over 30 whereas the equivalent all-Australia differential is a factor of 25 (Chart 16)
- there has been a relatively consistent relationship between the average daily number of Aboriginal 10 17 year olds under community based supervision orders compared to those who are held in detention (Chart 18).
- There has been a recent convergence of spending per child or young person aged 10 to 17 years in the population on detention based youth justice services between South Australia and the national average (Chart 19).

The report will be released on 24 April 2018.

Please let me know if you have any concerns or require further information.

Yours sincerely

Penny Wright

Training Centre Visitor

Peny Chings

Encl: Expenditure on South Australian Aboriginal and Torres Strait Islander Children and Young People in Care and/or Detention from the Report on Government Services 2018

Booth, Vikki (DHS)

From:

Lorek, Belinda (GCYP)

Sent:

Sunday, 4 August 2019 6:25 PM

To:

Booth, Vikki (DHS)

Subject:

RE: Acting TCV authorisation letter

Thank you Vikki.

Regards,

Belinda Lorek | Principal

Advocate

Training Centre Visitor / Office of the Guardian for Children and Young People

GPO Box 2281, Adelaide SA 5001 | Level 4 East, 50 Grenfell Street, Adelaide SA 5000

Ph: +61 8 8226 8513 or | Email: belinda.lorek@gcyp.sa.gov.au | Fax: +61 8 8226 8577

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'We acknowledge Aboriginal people as the traditional owners of this land, their living culture and their unique role in the life of the State.'

A model charter of rights for children and young people detained in youth justice facilities

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From: Booth, Vikki (DHS)

Sent: Friday, 2 August 2019 4:08 PM

To: Lorek, Belinda (GCYP)

Cc: Homden, Michael (DHS-YouthJustice); Bennett, Rohan (DHS-YouthJustice)

Subject: Acting TCV authorisation letter

Dear Ms Lorek,

Please find attached a copy of a letter signed by the Hon Michelle Lensink MLC, Minister for Human Services, authorising your temporary appointment as the Acting Training Centre Visitor during Ms Penny Wright's leave period. A hard copy will be sent to you in the mail.

Please feel free to contact me should you require anything further from our office relating to your acting role. Otherwise, for Youth Justice related queries and matters, please contact Mr Michael Homden.

I hope everything goes well during your period acting in the role.

Regards, Vikki Vikki Booth Ministerial Adviser **Office of the Hon Michelle Lensink MLC Minister for Human Services** Department of Human Services

Tel: 08 846 36542 Mob:

Email: vikki.booth@sa.gov.au



Government of South Australia

Department of Human Services

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Hancock, Janette (DHS)

From:

Wright, Penny (GCYP)

Sent:

Wednesday, 6 March 2019 4:09 PM

To:

Hancock, Janette (DHS)

Subject:

RE: Training Centre Visitor Program: the case for an increased budget - proposed

2019/2020 budget request attached

Importance:

High

Follow Up Flag: Flag Status:

Follow up Completed



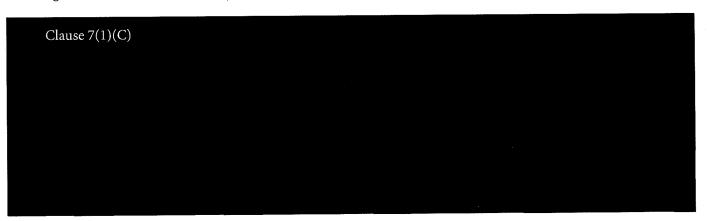
2019-03-06 Additional infor...



2019-03-06 (Amended) TCV...

Dear Janette,

In response to your email of 5 March 2019, please find attached the information you require, in the form of an updated Budget table. I have also incorporated this into an amended PDF document, which may be simpler. You could then disregard the earlier version. The only changes pertain to the Budget figures and the accompanying notes.



In the attached documents, I have provided a breakdown of the Goods and Services costs you requested but I have not provided a detailed rationale for those. I am happy to do so, if needed.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People



Please note our new address - from 4 February 2019!

Level 3, 111 Gawler Place, Adelaide SA 5000 | GPO Box 2281, Adelaide SA 5001

Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au

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A model charter of rights for children and young people detained in youth justice facilities

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From: Hancock, Janette (DHS)

Sent: Tuesday, 5 March 2019 7:55 AM

To: Wright, Penny (GCYP)

Subject: RE: Training Centre Visitor Program: the case for an increased budget - proposed 2019/2020 budget request

attached

Thank you Penny

We will review your request.

In the meantime, can you please provide some additional information:

On page 6:

- You provide the salaries and wages for each position in your proposed budget. Can you please provide the current salaries & wages for existing positions.
- Can you please separate the Training & Development from interstate travel.
- Can you please quantify what is included in office consumables

We will get back to you if we require any additional information.

Regards

Janette

Dr Janette Hancock Chief of Staff **Minister for Human Services** Department of Human Services

Tel: 08 8204 1958 Mob:

Email: Janette.Hancock@sa.gov.au

<< OLE Object: Picture (Device Independent Bitmap) >>

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From: Wright, Penny (GCYP) <Penny.Wright@sa.gov.au>

Sent: Monday, 4 March 2019 5:29 PM

To: Hancock, Janette (DHS) < Janette. Hancock@sa.gov.au>

Subject: Training Centre Visitor Program: the case for an increased budget - proposed 2019/2020 budget request

attached

Importance: High

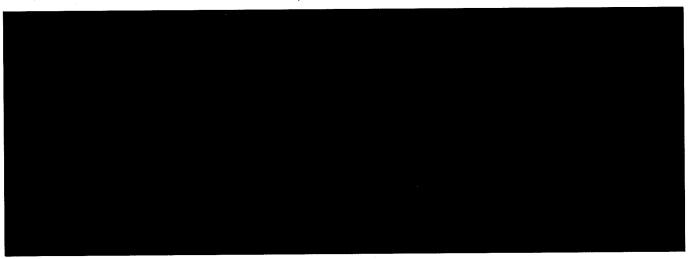
<< File: March 2019 TCV - The case for a budget increase and Proposed 2019-2020 Budget.pdf >>

Dear Janette,

Please find attached an updated budget request for the resourcing of the Training Centre Visitor role: "Training Centre Visitor Program: the case for an increased budget," for the attention of Minister Lensink.

As well as explaining the need for more resourcing to enable me to do my job, it also shows that the current budget was only ever an interim budget for the staged allocation of resources. You asked me for any documents that prove this is the case and I have attached the email from the (then) Guardian, Amanda Shaw, to the Director of Youth Justice, Sue Barr, dated 25 January 2017, (pages 7 and 8) that sets this out. The Department never objected to, or disavowed, her characterisation of the agreed budget in this way.

Although I understand that most aspects of government in South Australia are facing a constrained budgetary environment, it is my duty to advise the Minister about what is required to adequately fulfil my statutory functions as Training Centre Visitor to a minimum but adequate level. Not only do I have statutory responsibilities but the Minister and the Department are obviously responsible for the proper administration of the Youth Justice Administration Act 2016 and are entitled to know if there are impediments to my functions which may impact on the information I can bring to their attention.



I am happy to discuss anything raised in this request in more detail with you, the Department or the Minister. I would be grateful if the Minister could consider this request as a matter of urgency and advise me as to whether she is willing to support it, within fourteen days. I intend to provide it to the Executive Director of Youth Justice later this week.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People

Level 3, 111 Gawler Place, Adelaide SA 5000 | GPO Box 2281, Adelaide SA 5001

Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au

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Hancock, Janette (DHS)

From:

Hancock, Janette (DHS)

Sent:

Tuesday, 26 February 2019 11:09 AM

To:

Wright, Penny (GCYP)

Subject:

RE: Confidential - Update for Minister on Activities of Training Centre Visitor July-

December 2018

Thank you Penny.

I forwarded your email to our correspondence team last week but have only just realised I didn't respond to you personally- my apologies.

I agree- the meeting was very beneficial. It's always helpful when we can get everyone together.

The Minister's Executive Assistance will contact you shortly to arrange a suitable time to meet.

Kind Regards Janette

Dr Janette Hancock Chief of Staff **Minister for Human Services** Department of Human Services Tel: 08 8204 1958

Mob: Clause 6(1)(C)

Email: Janette. Hancock@sa.gov.au



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From: Wright, Penny (GCYP)

Sent: Tuesday, 19 February 2019 4:42 PM

To: Hancock, Janette (DHS)

Subject: Confidential - Update for Minister on Activities of Training Centre Visitor July-December 2018

Dear Janette,

Thank you for your time at the meeting convened by Karen Weston on 12 February. As you are aware, I have three distinct roles, and my work straddles the responsibilities of three separate Ministers. So, I found it valuable to be able to meet with the representatives of all three Ministers at the one time, giving me the chance to attempt to convey the scope of my roles and my various functions under three Acts.

Please find attached an update on my activities for the period from July 2018 to the end of January 2019, for the attention of the Minister. There has been substantial work to establish and operationalise the relatively new role of Training Centre Visitor over that time. I hope this will give the Minister an understanding of what I have been doing, what my staff and I have achieved so far and how I wish to continue, if possible. I am not of the view that this is a report for the purposes of section 19 of the Youth Justice Administration Act, but is more in the way of a briefing to update the Minister on work to date.

Minister Lensink will see that, in the course of visits and advocacy, I have become aware of some particular issues. It is my view the Minister is entitled to be made aware of these issues at an early stage, although my team and I are working with the management of the Youth Training Centre and the Department of Youth Justice to understand and resolve them, in the best interests of the young residents of the centre.

This update also highlights some ongoing challenges for my team and I – budgetary and legislative – which I have previously identified.

As agreed at the meeting last week, I will send through further details about the original agreement for funding of the Training Centre Visitor role, and an updated budget for the 2019/2020 year for the Minister's consideration.

As has been the practice of the Guardian in relation to the Minister responsible for child protection, as Training Centre Visitor I will seek to provide updates to the Minister on a quarterly basis. I would welcome an opportunity to meet with the Minister in conjunction with these updates, to discuss the information in more detail.

Best wishes,

Penny Wright

Guardian | Training Centre Visitor | Child and Young Person's Visitor Office of the Guardian for Children and Young People



Please note our new address – from 4 February 2019

Level 3, 111 Gawler Place, Adelaide SA 5000 | GPO Box 2281, Adelaide SA 5001 Ph: +61 8 8226 8570 | Email: penny.wright@gcyp.sa.gov.au

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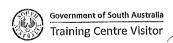
We acknowledge and respect Aboriginal People as the traditional owners and custodians of the land we live and work on, their living culture and their unique role in the life of South Australia.





A model charter of rights for children and young people detained in youth justice facilities

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Training Centre Visitor Activities Update – 18 February 2019 Notes for Minister for Human Services

1. Introduction

1.1 Update period

This update covers the period from 1 July 2018 until end January 2019.

In the future the Training Centre Visitor (TCV) will seek to provide the Minister with activity updates on a quarterly basis.

This is not intended to be a report for the purpose of Section 19 of the *Youth Justice*Administration Act 2016 but is provided as background material for the TCV's next meeting with the Minister.

Information is presented in three parts -

- Recent Case Studies that characterise the work of the Training Centre Visitor and issues
 arising for children and young people in detention
- Activity Update that summarises issues and achievements in the designated period, and
- Challenges that identify the main issues that have emerged in the establishment stage of the Program and makes recommendations for their resolution.

1.2 Significant issues arising from 2018 Visiting and Advocacy

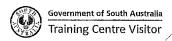
The TCV Unit undertook two phases of formal visiting in the second half of 2018. (And has now commenced the first phase for 2019).

For details of these visits, and individual and systemic advocacy - see 3 below.

In the course of visiting and advocacy I have become aware of some important issues, including those below. Some of these have now been resolved through negotiations between the Department for Youth Justice and my office. Others remain under discussion.

I bring these to the Minister's attention as part of my function to 'inquire into and advise the Minister in relation to any systemic reform necessary to improve the quality of care, treatment or control of residents'.

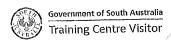
(We are currently finalising Visiting Reports for each term, and I am happy to discuss the format in which the Minister may wish to be acquainted with more detailed information from those reports.)



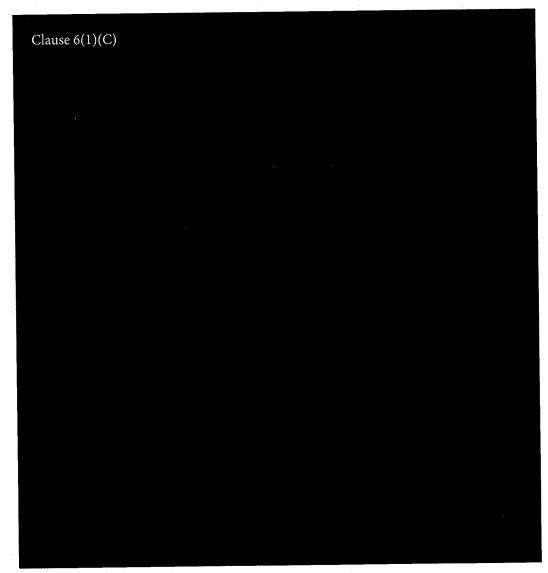
In managing any identified issues, my staff and I acknowledge that they will often reflect historical practices and systems that have developed within an environment of constrained resources. There is no intention to cast blame or fault but to work constructively with the staff and management of the AYTC and the Department to improve practices and systems and thereby improve outcomes and for the young people in the Centre.

At all times my staff and I seek to achieve a valuable and constructive relationship with the staff and management of the Training Centre balanced with properly carrying out my oversight role.

- a) No Aboriginal cultural programs were provided at Jonal Drive during Term 3 and Term 4. This has continued in Term 1, 2019 with no programs available. When visiting on 30 January 2019, one hundred per cent of residents in Jonal Drive were Aboriginal. The Centre has advised a cultural program is currently under development and nearing completion but is unlikely to be provided at Jonal Drive.
- b) For a temporary period, unclothed searches were being conducted in a toilet/bathroom at Jonal Drive (while a search room was fixed) affording little privacy for residents. This was raised by the TCV with Centre management and resolved immediately.
- c) The TCV identified that an excessive number of unclothed searches were being undertaken in 2018. Following discussions with the centre, unclothed searches have now been reduced to some extent due to the regular use of an ion scanner. However, the TCV Unit continues to hold concerns about the frequency of unclothed searches. During Term 4, two residents each experienced three unclothed searches in a two day period. This routine approach is likely to have a harmful impact on the wellbeing of children who often have a history of trauma and abuse. Less invasive and degrading processes must be explored as is currently underway in other jurisdictions.
- d) Cameras in bedrooms provide a clear view of the toilet. It is not yet clear what mandatory information is provided to residents to ensure privacy and dignity. Female residents have raised privacy concerns with TCV Advocates.
- e) During the first and second Review of Records, search logs were noted to be non-compliant with the requirements of the *Youth Justice Administration Act* (2016). The TCV advocated for this to be amended and logs have reportedly been re-designed by the centre to meet requirements. This will be a focus of the first 2019 Review of Records.
- f) The TCV continues to monitor the use of force and mechanical restraint in the Training Centre. Sixty three per cent (Term 3) and seventy one per cent (Term 4) of reviewed incidents involved the use of force and/or mechanical restraint. Use of force must be a last resort.



- g) The TCV closely monitors the use of unit Safe Rooms and the Centre's adherence to Youth Justice Administration Act (2016) requirements. TCV staff became aware of instances where residents had not been examined by an appropriate health professional following safe room use, nor had a cultural advisor been informed as required in section 28(6) of the Act.
- h) Some residents are reluctant to use the internal complaint process as they do not have faith in its ability to resolve their concerns and validate their experiences. The TCV and staff will continue to work collaboratively with the Centre to develop best practice in complaints handling, which can lead to quicker and more satisfying resolution of issues.
- i) The TCV is concerned about the lack of consistent mental health assessments for residents (which appear only to be in response to referral and not routine) and will explore this further in 2019.





3. Activity updates

3.1 Individual Advocacy

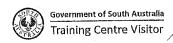
There were twenty two referrals for advocacy between June and December 2018. Two were made on behalf of more than one resident, the remaining 20 matters related to 18 young people.

18 individual young people/residents involved

Male	15
Female	3
Aboriginal or Torres Strait Islander	9
Not Aboriginal or Torres Strait Islander	7
Another Cultural Background	2
Aged 10-15	3
Aged 16-18	15

22 Advocacy matters

Jonal Drive	7
Involving females	4
Involving males	2
Involving both male and female residents	1



Goldsborough	15
Involving males	15

Source of Referral	
By staff	4
Self-referred by residents	18

Nature of issues (one issue may be in up to 3 categories)

NB — this does not include similar issues that may not have been dealt with through formal advocacy (which requires passage through a formal TCV assessment process) but were raised and addressed through engagement with residents during the TCV visiting program.

Activities / Programs	0	Beliefs / values	1
Admission / Induction	0	Transition from centre	2
Visits / phone / contact	2	Unit transition (internal)	1
Cultural Support	1	Searches	1
Court / legal	1	Relationships / staffing	4
Health Care	3	Education / training	1
Complaint	2	Discrimination	0
Identity	1	Material conditions /	4
Bullying	0	environment	
Separation / isolation	., 1	Placement / respite	- 5
Restraint / Use of force	1	Safe room	1
Section 34	0	Food /nutrition	2
BSF / Behaviour plans	3	•	

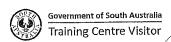
TCV Advocates also facilitated resident referral to the Guardian's Child Protection Advocacy Team for assessment and follow up. These matters were assessed as being outside the TCV's mandate and related to child protection case management for children and young people under Guardianship of the Chief Executive.

3.2 Visiting Program and Reviews of Records

3.2.1 Pilot program 2018

The TCV is currently considering and incorporating feedback from AYTC management on the draft report. The full report on the development and implementation of the pilot visiting program and review of records will be available shortly.¹

¹ Training Centre Visitor, February 2019, Adelaide Youth Training Centre: Pilot Visiting Program and Review of Records 2018



The pilot visiting program was undertaken from 23 July to 28 September 2018 and focused on five scheduled visits each to the Jonal Drive and Goldsborough Road Campuses. During these ten visits –

- 157 individual contacts were made with 73 residents
- 20 of these residents were at Jonal Drive and 53 at Goldsborough Road
- TCV staff spent 55 hours visiting the sites for these 10 visits

Of the residents who engaged with the TCVU during these visits -

- 2 were ten years of age, the majority were aged between sixteen and seventeen years, and 1 was aged over eighteen
- 47 identified as Aboriginal or Torres Strait Islander
- 7 were female and 66 were male
- the majority were reported to be on Phase One, followed closely by Phase Two (of the AYTC Behaviour Support Framework)
- 24 were under Guardianship orders.

Some issues and discussions generated through the visiting program included -

- the need for a review of the Behaviour Support Framework
- concern from some residents about the state of their rooms following searches by some staff
- the requirement to use a flexible (baby) toothbrush in Frangipani Unit
- · having unit rules that are more easily understood
- excessive frequency of unclothed searches
- information given to residents about camera angles at Jonal Drive and how they can have privacy if needed
- an interest in access to more pre-vocational courses and sewing and horticulture programs at Jonal Drive
- access to cultural programs, particularly at Jonal Drive
- the poor condition of bedrooms in Frangipani Unit
- concern about perceived differential treatment by staff.

The Review of Records was undertaken on 17 October 2018 (and off-site subsequently for some less sensitive documents) and reviewed documents including but not limited to -

- 1. Resident feedback forms and subsequent centre responses
- 2. Incident reporting including use of mechanical restraint
- 3. Search logs and registers
- 4. Safe room logs and registers
- 5. Training undertaken by staff
- 6. Programs
- 7. Achievements within the centre.



I am having discussions with the AYTC in relation to the seven recommendations arising from the Pilot Visiting Program and Review of Records.

3.2.2 Term Four Visiting 2018

Following the pilot, the TCV Unit continued the fortnightly visiting schedule during Term Four. This ensured a continued building of relationship between the TCV Program and residents as well as staff. The TCV Unit noted that the number of issues raised during term four plateaued as did referrals for advocacy.

Forty-two individual residents were present at Goldsborough Road over the period of Term 4 visiting.

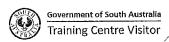
Goldsborough Road		42	
Under Guardianship of the Chief Executive	7	17%	
Aboriginal or Torres Strait Islander	25	59%	
Not Aboriginal or Torres Strait Islander	11	26%	
Another Cultural Background	6	14%	

Fifteen individual residents were present at Jonal Drive over the period of Term 4 visiting.

Jonal Drive		15	
Male		10	67%
Female 3		5	33%
Aboriginal or Torres Strait Islander		11	73%
Not Aboriginal or Torres Strait Islan	nder	4	27%
Males under Guardianship of the C Executive		1	10%
Females under Guardianship of the Executive	e Chief	4	80%
Aged 10 (males)		2	

Some issues and discussions generated through the term four visiting period included -

- the impact on residents of changes to staff teams (including lack of access to a female Aboriginal worker at Jonal Drive)
- 2. daily access to one hour of gym time for one unit
- 3. several residents sought information about their applications to attend funerals
- 4. resident concern about not knowing any professionals on the Review Board but recognition of the valuable role of the support person
- 5. food quality and inconsistency
- 6. young people remanded in the centre due to lack of placement
- 7. young people's participation in case conferences within the centre.



The Review of Records was undertaken on 17 December 2018 and reviewed documents including but not limited to;

- 1. Resident feedback forms and subsequent centre responses
- 2. Incident reporting including use of mechanical restraint
- 3. Search logs and registers
- 4. Safe room logs and registers
- 5. Training undertaken by staff
- 6. Programs
- 7. Achievements within the centre.

The Term Four Visiting and Review of Records report is now near completion and will contain several recommendations.

3.2.3 Planning and implementation for Visiting- 2019

The TCV has commenced a four-phase Visiting/Inspection program for 2019, comprising three normal visiting phases followed by a fourth adjusted to accommodate the TCV's first formal Inspection under s.14(1)(b) of the Act.

The scope and effectiveness of this program will depend on resourcing, notably the employment of a second (preferably Aboriginal) Advocate.

The 2018 pilot visiting program and review of records has shown that my capacity to meet the requirements of the Act is dependent on having appropriate staff to plan, engage and report on on-site conditions.



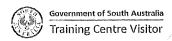
Diagram 1 – Overview of TCV Visiting and Inspection Activities 2019

Visiting Program A (29/1 to 12/4) Review of Records Reporting PHASE 1 Other - Inspection modelling/standards/policy; dual involved project Visiting A Visiting Program B (29/4 to 5/7) **Review of Records** Reporting PHASE Z Other - Inspection modelling/standards/policy and tools; Negotiations (esp. health focus); AYJ Conference Visiting 8 Visiting Program C (22/7 to 27/9) **Review of Records** Reporting Other - pre-Inspection advice/promotion (engagement with PHASE 3 CYP); Annual Report; Commonwealth Ombudsman OPCAT Visiting C process Inaugural Formal Inspection (last quarter of 2019) Visiting Program D (adjusted) (14/10 to 13/12) pre-Inspection advice/promotion PHASE 4 **Review of Records** Reporting Inspection Phase

3.3 Inspections

Section 14(1)(b) of the Act requires the TCV to conduct inspections. The first formal Inspection will be conducted in the last quarter of 2019.

Although detailed planning for the inspection will build on the broad policy work and visiting and advocacy that has been done to date, it will necessarily be designed to take account of TCV program capacity. Relevant factors include the cost of purchasing appropriate specialist independent expertise to ensure a credible, robust and defensible process. Indicative costs have been sourced from equivalent processes interstate.



In considering how to fulfil my Inspection function, I am mindful of my obligations as an independent statutory officer as considered by Commissioner Bruce Lander in the 2018 Oakden Report². In the analogous case of inspections by the Community Visitor, he observed that, whilst in theory relevant powers and functions "were appropriate and were important mechanisms for the addressing of complaints and reports of sub-optimal care, in practice they were less than effective, in part because the statutory powers conferred on the relevant statutory office-holders were not exercised to the extent that they could have been" (at page 193).

I seek to be as clear as possible with the Minister, and with Parliament, as to what an adequate statutory oversight process requires.

Further, for the sake of efficiency and consistency, I am seeking to develop processes now, that conform with the requirements of OPCAT (as noted in part 4.2.3 below).

3.4 Promotion of best interests and other activities

3.4.1 Charter of Rights

Section 22 of the Act requires a *Charter of Rights for Youths Detained in Detention Centres*. The Charter as adopted applies a model developed by the Australian Children's Commissioners and Guardians group to accommodate key commitments from relevant international children's rights instruments.

The TCV has just undertaken a project examining the Charter and its implementation and TCV planning and practice is shaped by the terms and spirit of the Charter. The current TCV budget makes no provision for dedicated work about the Charter. As such, the TCV would like to take a collaborative approach with the Department to increase resident and AYTC staff awareness and understanding of the Charter but there is currently little capacity to do this properly.

3.5 Youth Detention / Youth Justice Sector Engagement

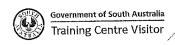
3.5.1 ANZCCG

The Australian and New Zealand Children's Commissioners and Guardians (ANZCCG) group meets every 6 months and I participate both as Guardian for Children and Young People and as Training Centre Visitor.

I co-hosted the November 2018 meeting here in Adelaide with the Commissioner for Children and Young People. Reflecting the group's focus on children and young people in the youth justice system, the meeting communique³ addressed four relevant matters -

² Hon. Bruce Lander QC 2018; Independent Commissioner Against Corruption, Oakden: A Shameful Chapter in South Australia's History (February 2018) https://service.sa.gov.au/cdn/icac/ICAC Report Oakden.pdf

³ http://www.gcyp.sa.gov.au/the-australian-and-new-zealand-childrens-commissioners-and-guardiansnovember-2018-meeting/



Child focussed oversight (Optional Protocol to the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment)

As a matter of principle, the oversight bodies charged under the OPCAT with inspecting and visiting facilities detaining children and young people should have a specialist focus on children and children's rights and be appropriately resourced. Where this is not possible, they should be informed by child-centred expertise and adopt a child-rights framework.

Age of criminal responsibility

Currently, the age of criminal responsibility across Australia and New Zealand is 10. The ANZCCG recommends the age of criminal responsibility should be no lower than the internationally acceptable minimum age of 12 and should ultimately be raised to at least 14 years.

Detention of children and young people in police facilities, in breach of minimum acceptable standards

ANZCCG notes that the fundamental rights of the child under the Convention on the Rights of the Child and the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) are being breached in relation to detention practices in some jurisdictions, particularly in Queensland and New Zealand. These include:

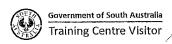
- inappropriate use of police watch-houses/police cells to hold children and young people, including for extended periods; and
- denial of basic rights with respect to practices such as solitary confinement, poor hygiene facilities, inadequate food, no access to outside air, and appropriate support.

Being held in police watch houses/police cells for extended periods can quickly lead to physical, mental, and emotional harm, and a real risk of self-harm.

Children and young people who are criminalised for behaviours related to disability or trauma

The ACCG notes that many children and young people in residential care face criminal charges and detention in the youth justice system due to minor incidents or behaviours that are related to the presence of disability or their previous exposure to trauma.

ACCG members recommend that, where this has not already occurred, jurisdictions develop and implement protocols between residential care providers, child protection agencies and the police to ensure that children and young people are not unnecessarily brought into contact with the youth justice system, detained, or remanded in custody.



3.5.2 Youth Justice Detention Oversight Workshop

The TCV Unit convened the first <u>Australasian Youth Justice Detention Oversight Workshop</u> in November 2018 to take advantage of the presence of significant participants who were already in Adelaide for the ANZCCG meeting.

It was a unique workshop as it drew together representatives of agencies with youth detention oversight roles from both the youth justice and custodial sectors for the first time. All Australian and New Zealand jurisdictions participated, with the following agencies in attendance —

- ACT Office of the Inspector of Correctional Services
- ACT Public Advocacy & Children & Young People Commissioner
- NSW Office of the Inspector of Custodial Services
- NSW Office of the Advocate for Children and Young People
- New Zealand Office of the Children's Commissioner
- NT Office of the Children's Commissioner
- Queensland Family and Child Commission
- SA Training Centre Visitor
- SA Guardian for Children and Young People
- SA Commissioner for Children and Young People 356
- Tasmania Commissioner for Children and Young People
- Tasmania Custodial Inspector Office of the Ombudsman
- Victoria Commission for Children and Young People
- WA Office of the Inspector of Custodial Services
- WA Commissioner for Children and Young People
- Commonwealth Office of the Ombudsman

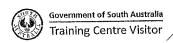
Discussions covered a range of issues from good practice for visiting, inspection and advocacy functions, through to sectoral issues such as the centrality of the rights of children and young people and the imminence of OPCAT requirements in local jurisdictions.

3.5.3 Other Stakeholder Forums

National Custodial Inspectors Teleconference

The TCV attends the quarterly national phone meeting of the heads of independent custodial or corrections oversight agencies. This provides the opportunity to update each other about developments in different jurisdictions, share good practice and identify priority and/or emerging issues.

In addition to jurisdictional updates, the most recent meetings (September and December 2018) focussed on several issues including: preparation for the commencement of OPCAT; matters arising from formal Inspections; the local impact of Independent National Security Legislation Monitor (INSLM) processes; coverage of places of detention (e.g. police lock ups); and the national youth justice oversight workshop I convened in Adelaide in November 2018 (see 3.5.2 above).



Youth Court Stakeholders Forum

The Chief Judge of the Youth Court convenes a regular Youth Court Stakeholders Forum. Matters discussed in recent meetings included the developing DHS youth justice framework (and its 'all of government' significance), procedural and systemic changes accompanying the full operation of the *Children and Young People (Safety) Act 2017*, and matters raised by specific stakeholders that are of general relevance (e.g. SAPOL noting changes to family law that will have implications for child protection intervention orders).

3.6 Scoping the TCV role and access to information

3.6.1 Comprehensive documentation processes

Significant and ongoing work has been undertaken to clarify the scope of the TCV Program, planning and collaborative arrangements. This section indicates areas in which progress has occurred in in recent months.

TCV /Department of Human Services MOU

I am currently negotiating a draft Memorandum of Understanding (MOU) with the Department. This process has raised some important issues, but hopefully should be completed soon.

Departmental data and information

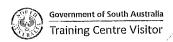
In November and December 2018, the Department provided material to assist our analysis of the youth detention system and help with the design of the TCV's statutory activities, within five main categories -

- Part 1 Youth Justice Memorandum of Administrative Agreements (e.g. MOAAs with SAPOL, the Department for Education, the Courts Administration Authority, and the Department for Correctional Services)
- Part 2 Youth Justice Orders
- Part 3 Youth Justice Policies, Procedures and other documents
- Part 4 AYTC Compliance and Audit documents
- Part 5 DHS documents.

The TCV Unit is reviewing these documents.

Information from others

I am awaiting a response to my 19 December 2018 letter to the **Minister for Police, Emergency Services and Correctional Services** requesting the provision of documentation relevant to the exercise of TCV functions (in particular seeking details about the contract under which G4S provides services with respect to children and young people who are subject to the Act and the *Young Offenders Act 1993*).



Principal Policy Officer (Alan Fairley) - The PPO provides high level policy and strategic advice, conducts research, prepares policy papers, briefings and reports.

Advocate (Travis Thomas) - The Advocate has a key role in the visiting program, maintains effective dialogue with and advocates for AYTC residents, and develops relationships with AYTC management and staff and other government and non-government stakeholders.

3.7.2 Operations and Budget

General

The TCV Program operates within the Office of the Guardian and works collaboratively within that staff group. This included being part of the move to new premises at the start of February 2019.

A benefit of this relationship is the capacity to access support for specific tasks such as the GCYP Senior Policy Officer's contribution to the intensive Review of Records process, and the assistance of the GCYP Communications Officer in promoting the best interests of residents.

Budget (to end-December 2018)

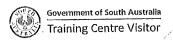
Training Centre Visitor - Performance Report FYTD December 2018

Project	YTD		
973 - Training Centre Visitor	Actual \$000s	Budget \$000s	Variance \$000s
Salaries	126	157	31
Goods and Services	6	22	16
Total Expenditure	131	179	48
Revenue	-179	-179	0
Net	-48	0	48

4. Challenges - critical issues and recommendations

The TCV Program requires respectful, engaged and effective work with, and on behalf of, a highly vulnerable group of children and young people.

Much has gone well with the establishment of the TCV role and Program to date; we have established a high degree of rapport and trust with residents and we have made progress on important aspects of visiting and advocacy, as described in the activity updates above. The work to date can demonstrate the efficacy of this independent oversight program and what can be achieved with its further development.



The TCV continues to liaise with the **Commissioner for Children and Young People** about collaborative arrangements in areas of mutual concern including, most recently, the operation of Part 7 (Information gathering and sharing) of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*.

The TCV is currently awaiting **Crown Law** advice about aspects of my powers under s.15 (use and obtaining of information) of the *Youth Justice Administration Act 2016*.

3.6.2 Provision of analysis, advice and general reporting

Substantive TCV documentation produced in this period included -

- Resident Consultation Report (July 2018)
- provision of baseline information for the Commonwealth Ombudsman for OPCAT purposes (October 2018)
- fortnightly Pilot Visiting Reports (through Term 3 2018)
- mid-way Term Four Visiting Report (November 2018)
- Draft Pilot Visiting Report and Review of Records (December 2018 final to be issued in February 2019).

Information was also provided through the GCYP website -

- What Youth Training Centre residents want from their community visitor (July 2018)
- The Youth Justice Administration Act 2016 some devils in the detail (August 2018)
- 7 important facts about young people in youth justice detention in SA (a 'quick educational quiz' on the GCYP website (September 2018)
- The Adelaide Youth Training Centre Snapshot 2017-18 (GCYP website data update, October 2018).

An important report was developed in conjunction with the *Child Development Council* and released in July 2018: *Review and Analysis Youth Justice Administration Act 2016 (SA) and Youth Justice Administration Regulations 2016 (SA)* (Miranda Furness).⁴ This continues to guide Program development and has informed subsequent work focusing on the implementation of the *Charter of Rights for Youths Detained in Detention Centres* (see part 3.4.1 above).

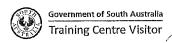
3.7 TCV Program Management

3.7.1 Staffing

I have 2.4 FTE staff to support my work as TCV -

Principal Training Centre Advocate (Belinda Lorek and Alan Fairley - job share) - the PTCA provides management and leadership for the TCV Program.

⁴ Available at - http://www.gcvp.sa.gov.au/wp-content/uploads/2018/08/Youth-Justice-Act-and-Regulations-Review-2018-07-24.pdf



There are some strategic issues that need to be addressed to achieve the relevant objectives of the *Youth Justice Administration Act 2016* (the Act). The TCV identified these during the early establishment phase of the program and they have been confirmed over the past year.

The TCV's letter to the Minister of 18 July 2018 set out the practical implications of the current 'interrupted mandate' and outlined other operational impediments within the new legislation and resources provided.

4.1 Provision of a realistic budget

Inadequate funding continues to jeopardise two of the most important TCV responsibilities: the ability to respond to the needs of seriously overrepresented Aboriginal and Torres Strait Islander children and young people in detention (primarily through the employment of a second, specialist, Aboriginal Advocate) and the need for a funded Inspection process.

The current budget is an Establishment Budget, negotiated and agreed on the assumption that

- the Office of the Guardian for Children and Young People (funded through the Child
 Protection portfolio) would carry certain costs while the new program was established, and
- that an operational budget would be developed once program work was underway and reliable costs could be discerned and reflect the fact that some core activities were not costed or funded in the establishment phase (e.g. costs of a formal inspection program).

The Establishment Budget did and does not cover core operational costs such as office rental and consumables, fleet car costs or assistance with the additional foreseeable and significant workload for the Guardian.

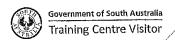
The TCV will be providing further information to the Minister about the Establishment Budget and updated information about the required budget, as a matter of urgency.

4.2 Mandate and Powers

4.2.1 "Resident of a training centre"

Under s.24 of the Act, the Minister has 'custody' of a resident from the time that they are sentenced to detention to the point at which they are released, whether a resident is within or outside the Adelaide Youth Training Centre (AYTC).

It is likely that the parliament's intention was that the Training Centre Visitor would exercise relevant functions from the time that a child or young person passed from the custody of the Youth Court to the custody of the training centre and continue to do so until the child or young person is finally released.



Crown Law has interpreted the term "resident of a training centre" restrictively to apply to children and young people only when they are physically located in the training centre precincts.

The TCV's mandate is thus not consistent with the Minister's responsibility for the "custody" of "youths in detention" in s.24 of the Act. As a result, the TCV's capacity to advocate on behalf of a resident, or promote their best interests, may be limited by whether that child or young person in the Minister's custody happens to be within the walls of the AYTC or not. This leads to an 'interrupted mandate' which inhibits the TCV's capacity to protect or promote the best interests of the child who is so affected.

I am hoping to be able to discuss with you the recommendations proposed last year in some detail, in particular -

<u>RECOMMENDATION:</u> that s.14(1) of the Act be amended to allow the term "resident" to apply to other appropriate custodial locations beyond the walls of the training centre, through the making of Regulations.

Section 14(1) of the Act can be simply amended to allow for a response to changing needs through Regulation.

The section currently reads:

14—Training Centre Visitor's functions

(1) The functions of the Training Centre Visitor include the following:

I request amendment to a more flexible provision could read:

14—Training Centre Visitor's functions

(1) The functions of the Training Centre Visitor with respect to training centres, and such other places of youth detention or custody as are identified in the regulations, include the following ...

4.2.2 Capacity to Delegate

The Department and the Guardian received Crown Law advice (9 March 2017) that the TCV has no formal power to delegate powers and functions to staff to implement the TCV Program, including core requirements such as the capacity to visit or inspect the AYTC. In contrast, analogous legislation such as the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* does have a provision (s.23) to allow the Guardian to delegate a function or power.

As previously advised, the TCV is not able to carry out all necessary tasks to meet the statutory functions in person. To date, TCV staff have been able to undertake relevant tasks but only because the Department of Human Services and AYTC management has allowed them to do so. While this is appreciated, it is not appropriate that an officer exercising independent oversight powers must rely on agreement on the part of the body being overseen. It inappropriately compromises the independence of the role.



<u>RECOMMENDATION:</u> that the Minister consider amending the *Youth Justice Administration Act* 2016 to enable the Training Centre Visitor to delegate:

- visiting functions (with likely implications for at least section 14(1)(a), and section 16 of the Act)
- advocacy functions (section 14(1)(d), and section 15)
- inspection functions (section 14(1)(b))
- and any related delegations necessary to allow other functions to occur e.g. section 14(1)(e), to provide advice to the minister in relation to systemic reform and section 14(1)(f), to inquire into and investigate any matter referred by the Minister).

4.2.3 Preparing for OPCAT and other potential roles

The National Preventive Mechanism (NPM) required under the OPCAT must be in place by the end of 2020. The *Youth Justice Administration Act* was developed to ensure consistency with OPCAT requirements, and this has also been my approach in developing the TCV Program to date. Given this, and the TCV's independent oversight capabilities (in relation to children in detention) it is likely that the TCV will be responsible for at least some places of detention for children and young people in South Australia. The Government is also considering the creation of other secure facilities (eg under the *Controlled Substances (Youth Treatment Orders) Amendment Bill 2018*).

I also draw the Minister's attention to the findings of the Royal Commission into Institutional Responses to Childhood Sexual Abuse, the report of the Royal Commission into the Protection and Detention of Children in the Northern Territory and ICAC Commissioner Lander's February 2018 report into the Oakden aged care facility. Together they contribute to the momentum for increased awareness and scrutiny of the conditions in which children and young people are held, particularly where those conditions are closed to the public.

<u>RECOMMENDATION:</u> that the Minister give consideration to the arrangements that may be necessary to enable the TCV's independent oversight role for places of detention under the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and other potential new secure facilities for children and young people.