



REPORT OF AN ANNOUNCED INSPECTION OF  
BANKSIA HILL JUVENILE DETENTION CENTRE

76

JANUARY 2012  
REPORT

*Independent oversight  
that contributes to a more  
accountable public sector.*



OFFICE OF THE INSPECTOR  
OF CUSTODIAL SERVICES



*Figure 1: Aboriginal culture and interpretative centre adjacent to the school.*

## **Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre**

Office of the Inspector of Custodial Services  
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# The Inspector's Overview

## BANKSIA HILL, A FACILITY IN FUNDAMENTAL TRANSITION

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### CONTEXT

Banksia Hill Juvenile Detention Centre is in the midst of a fundamental transformation. At present, it houses only young men and boys, primarily those who have already been sentenced. It is the responsibility of a separate facility, Rangeview Remand Centre, to receive and house young people when they first enter custody following arrest by the police or after being remanded in custody or sentenced by a court. Sentenced males and selected male remandees are subsequently transferred to Banksia Hill. All young women and girls – whether they are under arrest, on remand or sentenced – are housed at Rangeview.

In mid-2012, upon completion of a major expansion, Banksia Hill will become the sole juvenile detention centre in Western Australia. It will then be responsible for housing male and female children of all ages (generally between 10 and 17 years of age, but including some who are already 18), from all parts of the state, both sentenced and remand. Rangeview will cease to function as a juvenile facility and is to be remodelled as a privately-operated facility for young men aged 18 to 25.

Only time will tell whether the decision to manage such a diverse group in a single institution in Perth is the best choice, but it certainly presents some opportunities for positive improvements in the youth custodial system. For example, it should be possible to provide a more integrated and holistic approach to detainee management in general, and a much more protected, nurturing and positive environment for young women and girls in particular.

The redevelopment of Banksia Hill will also bring some economies of scale but it will be critical to ensure that sufficient human resources are in place. This is already a matter of some concern to this Office given that staffing shortages at both Rangeview and Banksia Hill have been impacting on services.<sup>i</sup> The redevelopment also provides the opportunity for Rangeview to offer 'something different' for young adult male offenders. Obviously, however, the physical and cultural changes which accompany these developments bring significant challenges for both staff and children at the two Centres.

### SCOPE, METHODOLOGY AND THE INSPECTOR'S 'AUDIT FUNCTION'

The Office of the Inspector of Custodial Services (OICS) is obliged to conduct formal inspections of places within its jurisdiction at least once every three years, and to report to Parliament on those inspections. However, as Banksia Hill was in the midst of redevelopment and cultural change during 2011, we modified our normal methodology. The aim was to reduce disruption to the Centre but to ensure that we fully fulfilled our statutory obligations. We therefore chose to target some areas which had been of special concern at the 2008 inspection<sup>ii</sup> or which had emerged through our regular inspection visits over the intervening period. We ensured, too, that we had a sufficient on-site presence and undertook a range of other enquiries, so that any other issues which emerged could be included in this report or raised with management during or after the inspection.

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i See below and throughout this report.

ii OICS, *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 58 (December 2008).

Although this Report does not examine all of Banksia Hill's operational areas, we have been actively contributing to and monitoring its development as a consolidated 'one-stop' facility. We will conduct another full inspection after it has had a suitable time to 'bed in', probably in the first half of 2013. Likewise, Rangeview, on which we last reported in December 2010,<sup>iii</sup> will be formally inspected within a reasonable period of opening as the Young Adult Facility. We also recently conducted a positive evaluation of the revised arrangements for transporting juveniles from regional and remote areas.<sup>iv</sup>

On 18 January 2012, legislation came into effect which empowers OICS to conduct audits of the treatment of groups of prisoners, juvenile detainees and people in court custody centres or undergoing transport. This new audit function gives us the scope to undertake additional work on areas of concern or by way of routine monitoring. Audit activities will sometimes be undertaken as a discrete exercise but they can also be conducted as a complement to an inspection. One area which has concerned us for some time has been the use of what is called 'regression' to manage adolescent misbehaviour at Banksia Hill. As a discrete but parallel exercise, we therefore conducted a detailed audit analysis of regression and have chosen to report on the audit as part of this report rather than separately.

#### INCREASING NUMBERS IN DETENTION

In addition to coping with physical redevelopment and cultural change, Banksia Hill has needed to handle an increasing number of detainees over the past three years.<sup>v</sup> During 2009, numbers reached three figures on relatively few occasions and, on average, the population was closer to 90. During 2010, numbers quite frequently exceeded 110, rarely dropped below 100 and averaged around 95. By 2011, numbers were rarely under 110 and quite frequently exceeded 120, averaging around 115.

Banksia Hill's increasing numbers reflect the fact that the total number of children in detention has risen substantially over the same period. In 2009, the average was around 150. In 2011, it was consistently over 185 and not infrequently exceeded 200. An all time population peak of 227 was reached on 27 April 2011.

Staff and management are to be commended for handling these increased numbers but they raise some obvious questions about whether the new Banksia Hill will have sufficient capacity and sufficient resources. The total number of standard beds in the redeveloped facility will be 210.

If the current growth in detainee numbers continues, it is likely that this number of children will regularly be in detention within a fairly short period of time. But it must also be remembered that, given the multiple roles which Banksia Hill must play, it is not a simple 'beds vs heads' equation. Of the 210 beds, eight are reserved for those regressed due to poor behaviour, and 14 for those who attain self-care status. Thirty six beds are reserved for female detainees, including four of the self-care beds. Given these constraints and

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iii OICS, *Report of an Announced Inspection of Rangeview Remand Centre*, Report No. 69 (December 2010).

iv OICS, *Report of a Review of Regional Youth Custodial Transport Services in Western Australia*, Report No. 74 (October 2011).

v The numbers are calculated from the Department of Corrective Services' Weekly Offender Reports. These are available at [www.correctiveservices.wa.gov.au/about-us/statistics-publications/statistics](http://www.correctiveservices.wa.gov.au/about-us/statistics-publications/statistics).

reservations, it seems almost inevitable that parts of the Centre will be operating above capacity from the time it opens.<sup>vi</sup>

It is to be hoped that important new regional youth justice initiatives, which are designed to reduce the number of children detained in Perth,<sup>vii</sup> coupled with initiatives in the metropolitan area, will have the desired effect of reducing the number of children in custody. In the meantime, it is understood that half of the new cells being constructed are being wired and fitted out to facilitate the installation of double-bunks, and that upper bunk frames are on hand to be installed at short notice.

## REPORT FINDINGS

### General Findings

Most of the findings of this report are positive. First and foremost, there was a noticeably marked improvement in the overall climate and atmosphere at the Centre compared with 2008, and it was well-controlled and relatively calm. However, the inspection also identified a number of significant issues which need to be addressed. Some of the more straightforward matters have already been tackled locally, and there has been a very positive response to a number of others, including improvements to the orientation of children into the Centre.

However, in some areas, the response to recommendations is less than satisfactory. For example, the reality is that children in detention are subject to being ‘locked down’ in their cells or units far more frequently than is the case at adult prisons. In response to our recommendation that the number of scheduled and unscheduled lockdowns be reduced, the Department of Corrective Services says that there is no alternative given existing resources, that all lockdowns are kept to a minimum, and that security and safety needs are paramount.<sup>viii</sup> This Office does not suggest that safety or security should be compromised, but firmly believes the current use of lockdowns is excessive and that the necessary resources should be found to at least bring practices in line with adult prisons.

### Detainee Discipline and Regression

As noted above, the use of regression has been a matter of concern to OICS for some time. Regression is officially badged as a targeted and individualised regime for improving behaviour. Legally, it sits separately from the rules relating to the ‘punishment’ of detainees for detention centre or criminal law offences. However, we found that it involves a restrictive regime which is in many respects indistinguishable from formal punishment, and generally of longer duration.

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vi For example, if the female beds are discounted, there are 174 cells for males. Eight of these are for regression (and it is to be hoped that they are not often full). It is also possible that not all of the male self-care beds will be filled. Given the numbers in detention over the last two years, it is therefore very likely that there will be fewer male cells than there are detainees. In such cases, the Centre will be forced to add bunk beds or to accommodate them on the floor of other cells or in holding cells, multipurpose cells, observation cells or medical cells.

vii See [www.correctiveservices.wa.gov.au/youth-justice/regional-youth-justice](http://www.correctiveservices.wa.gov.au/youth-justice/regional-youth-justice).

viii See Recommendation 3 below.

As the audit proceeded, it became clear that it was impossible to understand regression without analysing its use alongside other forms of detainee discipline. This report fully acknowledges the difficulties that staff face in dealing with some of the young people at the Centre. And it notes that staff usually, and quite appropriately, will try to resolve matters at the lowest possible level, rather than escalating them to formal charges or regression. However, we have made a number of negative findings with respect to the operation of regression and related disciplinary matters. The main findings and areas of concern include the following:

- Very poor documentation and record keeping made it impossible for us to be satisfied that there had been full compliance with the rules governing regression. When children are detained, and especially when they are detained in highly restrictive conditions, it is absolutely essential – for the protection of staff as well as detainees – that there is full and careful documentation.
- Formal detention centre charges (for which the *Young Offenders Act 1994* provides very clear procedures, requirements as to proof, and limitations on the extent of punishment) are rarely used. However, regression, which has far looser requirements and limited legal protections, is frequently used. This is of particular concern given that, in impact, regression can be more restrictive and intrusive than formal punishment.
- The use of short periods of regression and of identical *proforma* documentation is inconsistent with the argument that regression constitutes a genuinely ‘individualised regime’ for the detainees in question.
- Staff resources are not adequate to allow staff to ensure that legal exercise requirements are met, or to provide sufficient constructive activities or individual behaviour therapy.
- Inconsistencies within the governing legal documentation.
- Inconsistent views amongst staff and management about the use and aims of regression.
- Whether there is a sufficiently robust response to bullying and alleged assaults.
- An overuse of confinement of detainees following involvement in minor incidents.

These, and a number of other specific findings, led us to make no fewer than eleven recommendations on the management of detainee misbehaviour and regression. Most of these recommendations have been supported in full or part by the Department. It has also indicated in its formal responses to this report that some major reviews and changes are already in progress. In addition, we have been informed that documentation is being improved. As part of the next inspection of Banksia Hill, we intend to conduct a follow-up audit to examine progress.

## CONCLUSION

Banksia Hill will face numerous challenges as it moves to become a multi-function, all-gender facility, not least in terms of whether its capacity will be able to match demand, without resorting to widespread double bunking of cells designed for one. However, in terms of culture and ‘temperature’, the Centre is certainly much better placed to take on this role than it was three years ago, and the timing is good for a comprehensive review of the concerns raised in this report.

Neil Morgan  
18 January 2012



# Fact Page

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## NAME OF FACILITY

Banksia Hill Juvenile Detention Centre

## LOCATION

Banksia Hill Juvenile Detention Centre is located on Warton Road, Canning Vale, on the corner with Nicholson Road.

## ROLE OF FACILITY

Banksia Hill Juvenile Detention Centre is considered a maximum security facility originally designed to accommodate all young offenders, male and female, serving a sentence of detention. Such young offenders may at law be as young as 10 years of age (rarely under 12 years) and may include young people over 18 years of age completing their sentence of detention. However, since October 2005, all female detainees, including those serving a sentence, have been accommodated at Rangeview Remand Centre. Banksia Hill has also had to accommodate a number of male detainees on remand unable to be accommodated at Rangeview Remand Centre.

## BRIEF HISTORY

Banksia Hill Juvenile Detention Centre opened in October 1997, replacing the Longmore Training and Nyandi Detention Centres. A project was announced in May 2009 to convert Rangeview Remand Centre into a Young Adult Facility and to expand Banksia Hill Juvenile Detention Centre to accommodate all of Western Australia's young male and female detainees, including arrestees, remandees and those who are sentenced. It is expected that all detainees will be accommodated at Banksia Hill by mid-2012.

## LAST INSPECTION

15–20 June 2008

## DESIGN CAPACITY OF FACILITY

Type	Original Capacity	At this inspection	Post-redevelopment
Arrestee wing	Nil	12	12
Regression wing	8	8	8
Standard units	96	120	176
Self-care cottages	16	4	14
<b>Total:</b>	<b>120</b>	<b>144</b>	<b>210</b>

Note: the design capacity is a count of the beds in cells designed for single bed occupancy. One cell in each standard 8-bed wing has a bunk bed installed, only a few of which have ever been used. These cells are no bigger than others so these bunk beds are not counted towards design capacity. It is understood that the ability to add an additional bunk will be included in the build for many of the new cells currently under construction. Again, these may add to operational capacity, but not to design capacity.

# Chapter 1

## INTRODUCTION

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### CONTEXT OF THE INSPECTION

- 1.1 A government decision to convert Rangeview Juvenile Remand Centre to a facility for young men aged 18 to 24 years means that from mid-2012 Banksia Hill Detention Centre (Banksia Hill) will accommodate all young people held in detention in Western Australia, whether sentenced or on remand. To effect this decision, an infrastructure redevelopment project and a program of reforms to the operating philosophy and service model of youth custodial services in Western Australia has been underway since early 2010.<sup>1</sup>
- 1.2 Section 19 of the *Inspector of Custodial Services Act 2003* requires each custodial facility to be inspected at least once every three years. Since Banksia Hill was last inspected in June 2008, the current inspection was required to be performed by mid-2011. The Director Youth Custodial Services expressed concern about the impact of a full inspection at a time when youth custodial management and staff were fully committed to the twin tasks of caring for the young people accommodated at Banksia Hill and progressing the redevelopment and associated reforms. This was acknowledged by the Inspector. In addition, it was noted that any findings or recommendations from a mid-2011 inspection would come too late to be included in the current program of reforms. Thus, while the Inspector was legally obliged to inspect Banksia Hill at this time, it was decided that the inspection should be reduced in scope to minimise impact. This required some adjustments to the traditional inspection process and the current inspection can be more properly characterised as a ‘targeted’ check on the centre.
- 1.3 Although the current inspection was more targeted, it included an examination of core issues such as care and wellbeing of detainees, staffing and security and issues specific to the particular facility. These are summarised below.
- 1.4 In respect of care and wellbeing of detainees the focus was on whether standards were being maintained at a time when the attention of managers was divided between the redevelopment and reform program and the day-to-day operational management of the centre. In regard to staffing, the Office focussed on how staff were engaged in the change management process and whether relations among staff had improved since the 2008 inspection.
- 1.5 Security was an issue of specific interest for this inspection in light of deficiencies identified at the last inspection and the first successful escape from Banksia Hill in August 2010.
- 1.6 Another important issue addressed in the course of the inspection was an analysis of how the centre responds to misbehaviour by young people in the centre, and the use of what is called ‘regression’ in the hierarchy of responses. Regression has long been a component in behaviour management at the centre, but only during the period since the last inspection has it emerged as an issue of high concern for this Office. In order to examine regression itself, and the role of regression in the broader scheme of responses, a specific audit process was undertaken. This audit included a statistical analysis of the operation of regression over a three year period and an in depth analysis of a randomised sub-sample of specific cases. The results of that work are in chapters four and five.

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1 The Office of the Inspector of Custodial Services has been involved in contributing to the ongoing reforms.

## INTRODUCTION

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- 1.7 When the inspection was announced to the Department of Corrective Services (the Department), it was indicated that health services would also be in focus for the inspection and education and training were also being considered. Ultimately, in keeping with the decision to undertake a more targeted inspection, it was decided that these areas would not be subject to detailed examination, but that any matters that arose during the course of the inspection would be noted.

## METHODOLOGY

- 1.8 Because of the targeted nature of this inspection its methodology differed to previous inspections of Banksia Hill undertaken by the Office. Prior to the inspection only a very limited set of documents and other information was requested, and no particular submissions or briefings were requested of management. Nor were surveys or community consultations conducted in advance.
- 1.9 Inspections of facilities of this size normally involved four to five days intensive site-work by several inspectors and independent experts. However, this inspection was conducted with a smaller team attending intermittently over a three-week period commencing on Tuesday 31 May 2011. The on-site activities included the following:
- The team met briefly with senior staff on the first morning to explain how the inspection would be conducted.
  - The team toured the facility, including newly completed areas such as the reception building, staff amenities extensions, Harding D Wing and the junior school area.
  - A brief survey was administered in classrooms and workshops on the first day to ascertain what issues young people thought the Office should examine as part of the inspection. Young people were also asked to indicate their interest in speaking individually with an inspector.
  - Two team members met with those present at the weekly staff meeting. An offer was made for staff to approach the Acting Inspector individually, which occurred throughout the course of the inspection.
  - During the first and second weeks of the inspection, those young people who indicated interest in speaking to an inspector were interviewed individually to seek their views and experiences about a broad range of topics, especially those raised in the earlier survey.
  - One team member spent time with security and control staff, checked relevant records and toured relevant areas.
  - During the third week, team members held meetings with relevant managers to seek clarification and views on issues raised by young people in the survey and interviews.
- 1.10 The audit of the regression program and its role in behaviour management more generally was conducted as a discrete process, by another staff member. This involved a substantial amount of work in terms of collecting and validating the data and analysing the findings.

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- 1.11 On 17 June 2011 an Exit Debrief was provided to centre management and the Department's senior management. This was followed on Tuesday 21 June 2011 by a similar debrief to the Team of Young Leaders, the detainee committee.

### PAST INSPECTIONS

- 1.12 The first inspection in March 2005 determined that Banksia Hill was one of the best performing institutions in the Western Australian custodial estate, with a strong pro-social environment and good staff-detainee interactions.
- 1.13 The second inspection in June 2008 was not quite as positive. The Inspector noted that the centre had failed to make noticeable progress and some areas of good practice had slipped. Nevertheless, it was acknowledged at the time that Banksia Hill had maintained its strong pro-social environment and positive staff-detainee interactions.
- 1.14 A disappointment in that inspection was the level of tension onsite between staff and management and within the staffing group. There were factions in the staffing group and reports of staff-on-staff bullying, an instance of which was evident in a staff meeting facilitated by the Office.
- 1.15 The Inspector was also critical about the lack of an integrated, comprehensive through-care model in the centre, although it was acknowledged that the centre was under pressure on a number of fronts not least of which was the increase in the growth of the population and a shift in proportion of sentenced to remanded detainees.

### OVERVIEW OF THE FINDINGS OF THE CURRENT INSPECTION

- 1.16 The present inspection found that for the most part, the standard of care and well-being of detainees was being properly maintained during the redevelopment of Banksia Hill and that the centre continued to offer a pro-social environment. The Deputy Inspector in his Exit Debrief on 17 June 2011 reported:

There is no doubt that the overall climate and atmosphere at the Centre has improved markedly since 2008. In 2008 the tension was palpable – today it feels like a completely different place. The impression is of a well-controlled and relatively calm environment albeit with the usual range of issues that present within this type of institution, and there is some anxiety about the future amongst staff.

- 1.17 This is an excellent achievement, but there were also a number of findings mainly arising from interviews with youth, that required attention if the expanded centre is to reach its potential:
- Induction and orientation is far too limited in scope and detainees are overly reliant on each other or on prior experience for information.
  - Young people complained that the food was fatty, less than fresh and insufficiently nutritious. However, the method of presentation changed at the time of the inspection and following the inspection, this was no longer an issue.
  - Young people typically spend up to 14 hours per day in cells which have limited amenity and few belongings. This is exacerbated by unscheduled lockdowns mainly due to staffing issues.

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- The range of items able to be purchased in the canteen and possessed by detainees is rather more limited than in an adult facility. Resources able to be provided by families are also unduly restricted.
- Afternoon lockdowns and unscheduled lockdowns impede detainee access to recreation, increase resentment and elevate risk through an increased propensity towards disruptive behaviours on their part.
- Detainees complained that the visits area was often crowded, was uncomfortable and lacked privacy. A number would like to be able to move around or do other activities with their family such as share a meal or play with younger siblings.
- While most youth feel safe at Banksia Hill, a few did not. Some detainees expressed the view that officers did not sufficiently supervise detainees, that they failed to protect some of the detainees, failed to stop fights soon enough and handed out insufficient punishment to deter bullying.
- Detainees indicated they sought support from custodial officers, psychologists, family and friends. However, Aboriginal detainees were especially dependent on support from a small group of Aboriginal custodial officers.
- Most staff were well regarded by youth in the work they do, but young people also adduced, and other sources of information suggest there are aspects of how some staff interact with detainees that are less than healthy and deserving of reform.
- Detainees were overwhelmingly satisfied with the progress they were making in their classroom learning and believed it would help them with school or in future employment or training on release. However, they were somewhat less satisfied with the training provided at Banksia Hill. Older detainees said they would like to have access to traineeships, apprenticeships, short courses, certificate courses, work experience or work-ready programs that may assist them to secure employment on release.
- While some excellent brief interventions are provided to youth at Banksia Hill, they are significantly less intensive than those provided to adult prisoners. A more intensive and sustained intervention strategy for detainees involved with substance misuse is warranted.
- Detainees interviewed by the inspection team agreed that many programs provided at Banksia Hill (such as HALO, an Aboriginal mentoring program; the drug/alcohol programs; the YMCA Way to Work work-readiness program; the Prepared for Life anger management program; and the sex and relationship courses) were useful and would help them stay out of trouble after release. However, older detainees in particular felt that some programs were too basic and directed more to younger children. The review also found that there were limited options available for those who had returned to the centre more than once.
- While detainees seemed to view their contact with case planning positively, there was little sign they had the kind of collaborative a relationship with their case planning officer likely to best serve their rehabilitative needs in the absence of a case management role by custodial staff.

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1.18 As indicated, a parallel audit on regression was conducted. This was considered more broadly as part of processes relating to detainee discipline and also triggered an investigation into the legal framework for detainee disciplinary practices. We found:

- The *Young Offenders Act 1994*, the *Young Offenders Regulations 1995* and the Juvenile Custodial Rules are silent on the question of the standard of proof required to establish a detention offence.
- The ability of the Superintendent and the Visiting Justice hearing a detention centre offence to increase the time a child must spend in custody by way of punishment for a detention offence breaches the principle in the *Young Offenders Act 1994* that a young person who commits an offence is not to be treated more severely than an adult would be treated in the same circumstances.
- Regression is a three stage regime, the first stage of which involves confinement in a multi-purpose cell in Harding B wing. In Stage 2, the young person is placed in Harding C or D wing for a time to demonstrate more compliant behaviour as restrictions are progressively lifted and privileges restored. Stage 3 marks the beginning of participation in selected school or recreation activities with other detainees whilst still residing in Harding Unit. In the period from 1 January 2009 to 30 March 2011, detainees were placed into regression in the Harding Unit at Banksia Hill detention centre on 498 occasions.
- There are anomalies between the Juvenile Custodial Rules and centre practices relating to confinement of a young person (whether as a penalty for a detention centre offence, or for good government, order or security) and the provisions of the *Young Offenders Act* and the *Young Offenders Regulations*, including in exercise, access to reading materials, monitoring and documentation.
- Almost all incidents of misbehaviour by detainees are dealt with administratively, through the imposition of a domestic style consequence, or in some cases through the imposition of a regression regime. Very few are dealt with as detention centre offences as provided in the *Young Offenders Act 1994*, or by way of referral to police for prosecution in a court.
- Despite most incidents being dealt with through the imposition of a domestic style consequence, over half were initially confined in a multi-purpose cell in Harding unit sometimes for a number of hours. This implies significant overuse of confinement.
- An analysis of responses to assaults by detainees indicates most were dealt with only through domestic-style consequences rather than through detention centre charges or other more serious consequences which raises the question whether a sufficient robust response was made to incidents of violence.
- Inadequate documentation is kept on those placed in a regression regime, as to cell placements, time out of cell, placement reasons and other information to ensure duty of care, demonstrate compliance with legal requirements and contribute to continuous learning and improvement.

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- According to the Department's principles, regression is supposed to provide a framework within which the behaviour of the individual detainee can be addressed and modified, not used as a sanction or 'punishment' for bad behaviour. However, it was clear that these boundaries are blurred, that they are not always understood by staff, and that the principles are sometimes transgressed. In particular, the boundaries between confinement and regression appear unclear and the relevant legal instruments are scattered and complex.
- The temptation for 'improving behaviour' to morph into punishment (intentionally or otherwise) is all the greater because regression, at least in its early stages, is almost indistinguishable from punishment. It is also swifter and involves less onerous procedures. The average stay in Harding B wing was just over two days, but some individuals were confined for many days.
- Regression is generally triggered by incidents which could result in detention offence charges. Whilst it may sometimes be appropriate to use regression in this way, the data suggest that its use in lieu of formal charges may be excessive, and contrary to the original intent of the *Young Offenders Act*.
- The avowed purpose of regression is to improve behaviour through a *targeted and individualised regime*. However we found that a simple proforma regime was applied in almost every case. In many cases, there seemed to be comparatively little engagement with youth on regression by psychologists, Aboriginal Welfare Officers and other support staff.
- Custodial officers attached to regression wings have been regularly and routinely cross-deployed to other tasks which caused detainees to be locked into their cells for extended periods, sometimes without full exercise entitlements, and preventing staff giving detainees the individual attention that is intended in their regimes.
- Regression as it stands is a somewhat crude behaviourist model and there is ample scope for a new model. There needs to be comprehensive reform to the systems and processes for behaviour management in juvenile custodial facilities, especially in the areas of confinement and regression and development of multi-disciplinary models which pay full regard to the principles in the *Young Offenders Act* and which are more subtle, more focused and more therapeutic than current practice.

## FUTURE INSPECTION

- 1.19 As the scope of the present inspection was reduced, it is intended that the next full inspection of Banksia Hill Detention Centre be undertaken earlier than would otherwise be scheduled. The Office therefore expects to carry out a full inspection in early 2013, after the expanded and reformed facility has been functioning for at least six months.

# Chapter 2

## STAFF MANAGEMENT

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### PROGRESS SINCE THE 2008 INSPECTION

- 2.1 Committed, caring and well trained staff are integral to the functioning of any custodial institution, but especially so in one accommodating youth and children. It is not just a matter of managing youth in custody, but working with and caring for each individual to develop their interpersonal and life skills to increase the possibility of positive integration into their communities on release. The Office has always been, and continues to be, impressed with the prosocial environment that staff and management at Banksia Hill provide the young people in their care. This has continued notwithstanding some significant structural barriers, such as the 12-hour shift system which reduces the continuity of care and activities that any one staff member may provide.<sup>2</sup>
- 2.2 In the 2008 inspection the Office was quite concerned at the low level of staff morale encountered at Banksia Hill. This appeared to stem from problematic relations with management, major deficiencies in staffing numbers and significant levels of bullying among staff. Following the report of the 2008 inspection the former Juvenile Custodial Services Directorate made efforts to address these issues by increasing staffing levels, implementing better performance management systems and providing training to assist the development of a more accountable and responsive work culture. Vacant unit manager and senior officer positions were also progressively filled.
- 2.3 However, despite reaching a full staffing complement by Christmas 2009, staff numbers were quickly eroded in the first half of 2010 due to resignations, secondments, long-term sick leave, maternity leave and up to 13 staff on workers' compensation leave at a time when the centre had to cope with unprecedented numbers of detainees.<sup>3</sup> This caused the highest levels of unscheduled lockdowns of young people in their cells after school and over weekends ever reported from Banksia Hill.<sup>4</sup>
- 2.4 Further recruit schools in 2010 brought staff numbers above the level required to fill all positions by the end of the year but attrition, annual leave, secondments and other absences meant that by April 2011 rosters again ran short and this resulted in further unscheduled lockdowns. At the time of this inspection, staffing levels had stabilised, most shifts were able to be covered and unscheduled lockdowns were rare. However, there remained some fragility in staffing levels, which may be attributed to efforts by the Department to rein in overtime expenditure following a \$29.3M blowout in prison expenditure.<sup>5</sup>

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2 See below [3.50–1].

3 See below [3.1].

4 This is known from contemporary reports by OICS liaison officers and Independent Visitors. When asked for its own records about the lockdowns, Banksia Hill could not provide clear, consistent records showing dates and times of lockdowns.

5 Ben Harvey, *Prisons facing budget blowout*, The West Australian, 1 March, 2011 (from <http://au.news.yahoo.com/thewest/a/-/wa/8927677/prisons-facing-budget-blowout/>). In fact, the whole Department was required to reduce expenditure, including in overtime.



- 2.5 The retirement of the former superintendent in mid-2010 brought forward the assumption of that position by the Director Youth Custodial Services, originally intended to occur after the two youth justice centres amalgamated.<sup>6</sup> This represented a significant extra burden for the Director who, while performing the role of superintendent at Banksia Hill (including overseeing the redevelopment and reform program) also retained strategic responsibility for the reforms to youth custodial services and line management responsibility for the superintendent at Rangeview Remand Centre. The Director, generally referred as in the text that follows as Superintendent, is a former Group Worker.<sup>7</sup> He has worked hard to build relations with staff generally at Banksia Hill, and especially with some of the more disaffected staff. Positively, the inspection team heard that he regularly walks through the centre, visiting different areas and speaking with staff and young people.

#### THE PRESENT SITUATION

- 2.6 Contact with staff for the current inspection was limited and consisted primarily of a meeting with staff on shift on the first Wednesday the Office was on site, individual interviews with those staff who approached an inspector, and contact with others while observing activities during the inspection. There was no staff survey prior to this inspection and training records, personnel records or other documentation in relation to staffing were not examined. However, the reports of regular liaison visits by the Office and Independent Visitors prior to the inspection contained valuable information about staff concerns which helped inform the inspection team.
- 2.7 Despite the limited scope of this inspection, the inspection team found a ‘palpable improvement in the morale and wellbeing of staff from that encountered in 2008’.<sup>8</sup> While there were frustrations and complaints, there was nevertheless broad agreement among staff that the current Superintendent generally understood what staff were going through and supported them in their work.
- 2.8 However, there were continuing frustrations expressed about deficiencies in communication on site. While staff meetings are held monthly and attended by most staff on shift on that day, this only represents a portion of the workforce. There is therefore an over-reliance on word of mouth, the staffroom notice board and emails to distribute information. Some staff expressed a desire to return to past practices where all staff gathered at the beginning of a shift to hear the log reading from previous shifts and to receive instructions for the day from senior staff.

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6 As part of broader reform of the Community and Juvenile Justice Division, the Juvenile Justice Directorate was abolished as an administrative entity and incorporated into a new Youth Justice Services Directorate. What is now known as Youth Custodial Services is perhaps best described as a program area within that Directorate. The position of Youth Custodial Services Director retains responsibility for custodial operations but no longer has responsibility for education or psychological services in the centres.

7 Group Worker is the name previously given to Youth Custodial Officers.

8 Deputy Inspector, Exit Debrief (17 June 2011).

- 2.9 It is acknowledged that a centre-wide gathering for all staff would be highly impractical in a facility like Banksia Hill. However, there may be opportunities to establish a practice of team meetings at the unit level, perhaps at the commencement of each shift.<sup>9</sup> The TOMS database has a useful log system which can facilitate information flow between shifts, but it appears to be under utilised at Banksia Hill.
- 2.10 Centre-wide communication could also be addressed through other means and practices, and perhaps those used at adult facilities could inform Banksia Hill. For example, at Acacia Prison monthly meetings are carefully prepared with inputs from different managers. Each of these meetings is held twice (timed to capture both shifts) and a high priority is placed on attendance by all staff including managers and non-custodial staff. Minutes of meetings and associated resources are placed on a shared portal.
- 2.11 It is acknowledged that it is very difficult to achieve effective communication across a campus-style facility with workers on various shift patterns. Units are closed for much of the day while youth are at school, which means that custodial staff are without access to their offices for much of the day and have therefore have limited opportunities to access information electronically. Extra workstations have been installed in the common staff room to facilitate access to emails, other online materials and for report writing. There will never be a perfect system of communication between staff and management, but staff have to take an interest in finding out what they need to know and management need to evaluate the effectiveness of the current communications strategy and implement changes where necessary.

#### RELATIONS AMONG STAFF

- 2.12 The Office did not observe or receive direct evidence of bullying among staff during this inspection and staff appeared more tolerant and respectful than observed at the 2008 inspection. However, the Office is aware that staff have different views about matters such as managing detainee problem behaviours, protecting the welfare of detainees and pursuing issues with management. There was also evidence that staff who were making an effort to provide certain activities for detainees were sometimes undermined by others. This displayed some lack of consistency amongst staff in attitude towards their work and cohesion to a philosophy of how to deliver services to the young people.
- 2.13 In general, the Office found that staff culture had shifted favourably away from the more negative and authoritarian culture that was observed in the 2008 inspection. Such attitudes and behaviours had only been championed by a minority of staff, but they seemed to have had a disproportionate influence. Nevertheless, it is incumbent on management to ensure that staff employ more child-focussed strategies for managing detainee behaviour and that those who show initiative in providing environmental enrichment for detainees continue to be supported.

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9 It is understood that unit managers, senior officers and others meet three times a week for debriefing.

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CHANGE MANAGEMENT

- 2.14 With Banksia Hill undergoing a major program of redevelopment and reform, a question for this inspection was whether staff felt sufficiently informed about these changes. A significant aspect of these reforms was the impending amalgamation of the workforce from Rangeview Remand Centre with the workforce at an expanded Banksia Hill. This was scheduled to be completed by December 2011.
- 2.15 Staff acknowledged in their meeting with the Office that there had been opportunities to contribute to these reforms. This included an internal website being established by the Department to inform them about the project and that participation by some staff in working groups as part of the project. The planned changes had also been discussed in staff meetings and union meetings since its inception and staff swaps between Banksia Hill and Rangeview were underway at the time of the inspection to familiarise members of each workforce about procedures, challenges and working styles in the other centre.<sup>10</sup> Joint barbeques and other activities were also planned to assist the two workforces to develop good working relationships.
- 2.16 The internal website was initially established in 2009 to inform staff about the wider redevelopment of youth custodial services. It states that the master plan for the redevelopment ‘was developed in consultation with staff from Banksia Hill and Rangeview.’ It further affirms that ‘staff input and involvement will be critical to developing a new operating model and practices.’
- 2.17 In March 2010, nominations were sought from staff to participate in nine working groups to develop a service delivery model in each focus area to improve outcomes for young people. Each group included one custodial officer from each of the two centres and relevant non-custodial staff according to the topic area. In a News Update dated 3 May 2010, it was reported that every staff member who nominated had been incorporated into a group. A commitment was also made that ‘all documents will be made available on the dedicated intranet page’, including all of the outputs from early consultations.<sup>11</sup>
- 2.18 However, neither the consultation outputs nor any other project documents were posted on the internal website for staff, nor were any more new updates issued. This is an unfortunate lapse and it would seem appropriate for Youth Custodial Services to revive the website as a key component in the strategy to inform and engage staff as the redevelopment and reform project continues.<sup>12</sup>

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10 The staff swap started with senior officers and is expected to progress to an exchange of superintendents. Rangeview staff were due to begin ‘shadowing’ staff at Banksia Hill in September.

11 Department of Corrective Services (DCS), *Youth Centre Redevelopment- News Update*, Issue 4, (3 May 2010); outputs of earlier consultations were distributed in physical form to group members.

12 In its response to the draft report, DCS indicated that the portal was updated in November 2011, although the paper *Making a Positive Difference in the lives of Young People in Youth Custodial Services* was circulated in hard copy to staff within the centre, rather than on the portal. ‘There has been a lapse to some degree, however, due to the delay in capital works, no new relevant information is available. It makes no sense to publish articles unless they are relevant and up to date.’ There were also emails to all staff from the Director Custodial Services in April, May and June 2011 in relation to training and rosters.

- 2.19 One of the biggest concerns that staff expressed about the changes was the impact that the return to the co-location of young women and girls with male youth would have on the centre. It was of concern that some officers did not appear to be aware of key aspects of what was to be implemented in relation to the management of young women and girls in the centre despite reported Departmental efforts to inform staff about the planned changes. This included a lack of knowledge that young women and girls would be accommodated in their own precinct with separate education, programs, health services, recreation and management; that the precinct would operate as a ‘therapeutic community’; and that there would be selective rostering requiring additional training.<sup>13</sup>
- 2.20 A few staff said that, in their experience, young women and girls are more difficult and demanding, while others stated that working with young women and girls put male staff at risk of false accusations of sexual improprieties. One trusts that workers with such attitudes would not put themselves forward or be selected to work in the young women and girls precinct; it is also important that staff who work with young women and girls are appropriately trained to minimise such risks.



*Figure 2: Young women & girls precinct under construction (Jan 2012).*

- 2.21 Obviously, the introduction of female detainees to the centre will present new issues for staff. For example, it will require staff to strictly control any contact between males and females detained at the centre. A commonly held view among staff was that the presence of male and female detainees in a single centre will generate unnecessary conflict and increase risky, demonstrative or disruptive behaviours among both genders of detainees. It is feared that, as a consequence, both groups will become harder to manage. It is important management address this perception through engagement with staff, training and holistic operational guidelines.
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- 13 Information provided by management. The notion of a therapeutic community is a closed environment in which the physical environment, the other clients, the staff, and the policies of the facility are all considered part of each individual’s treatment experience.

2.22 Another concern of staff was that there would be inadequate facilities at Banksia Hill to accommodate an expanded workforce. At the time of the inspection the redevelopment project had already delivered an expansion to the staff room including extra toilets, showers and lockers. Some computers had been installed in the staff room and the staff kitchen had also been upgraded. Existing staff had become accustomed to the extra space and facilities and were concerned they would not be adequate when the Rangeview workforce joined them. This is understandable, but the staffing facilities at Banksia Hill are superior to those provided for a similar-sized workforce in other facilities and should prove adequate in practice.

#### ABORIGINAL STAFF

2.23 Another issue that arose during the inspection was the need for more Aboriginal staff in the centre.<sup>14</sup> The majority of detained youth are of Aboriginal background and the inspection team learned that a number of them particularly seek out Aboriginal officers for assistance and support. This puts the relatively few Aboriginal staff at Banksia Hill under tremendous pressure; they are called upon not only to help and support Aboriginal detainees, but also to act as role models and represent them in the centre's decision-making (such as in placements, disciplinary matters and program opportunities that may arise).

2.24 Unfortunately, selection systems appear to make it very difficult for many indigenous applicants to succeed in applying for youth custodial positions and only one applicant made it through the most recent recruitment process. While Aboriginal recruits are not excluded on the basis of psychological testing (which is recognised as not being normalised for Aboriginal people), fitness and medical tests can often prove insurmountable, especially for mature staff.<sup>15</sup> Aboriginal staff suggested that mature Aboriginal men and women be employed in non-custodial care roles as 'aunties' or 'uncles' to the youth in the units.<sup>16</sup> Centre management were receptive to the idea and it deserves further exploration, but it would be important that jobs are adequately defined to ensure that responsibilities for detainee care and discipline are effectively balanced between custodial and non-custodial officers and that there is parity of status and remuneration.

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14 For the purposes of this report, reference to Aboriginal people includes reference to Torres Strait Islander people.

15 Criminal histories can also be problematic. The Office is aware that some Aboriginal applicants have been excluded on the basis of very old offences committed as young adults.

16 The idea was put informally during the inspection by Aboriginal staff encountered during the inspection and further discussed at a meeting of Aboriginal staff with the Office on 29 August 2011.

# Chapter 3

## DETAINEE CARE AND MANAGEMENT

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- 3.1 A core concern of the present inspection was the care and wellbeing of young people at a time when management and staff were potentially distracted by the redevelopment and reform program at Banksia Hill. In reality the redevelopment and reform program was only one of a number of factors impinging on detainee care and management in the period leading up to the inspection. For example, detainee population numbers were elevated during the period February to June 2011, reaching a peak of 138 on 29 April 2011. This coincided with increased staff absences, which led to frequent lockdowns, especially on weekends in April and May.
- 3.2 This situation mirrored that in the first half of 2010 when population numbers at Banksia Hill had reached a new peak of 125 on 12 May, also coincident with declining staff numbers and frequent lockdowns.<sup>17</sup> At that time, the new 24 bed Turner Unit was pressed into service despite having some outstanding problems with building services. Commissioning of the Turner Unit, which was pristine, highlighted how degraded other units had become and a program of painting and other renovation work was commenced which was still in train at the time of the inspection in June 2011.
- 3.3 The rate of critical incidents had also continued to escalate in early 2010, in particular those which involved young people climbing onto roofs in the centre, a potentially dangerous activity causing major disruption to centre operations. Works were also undertaken to reduce roof access, especially to the higher roofs around the Ed/Voc area where serious damage had been caused on a number of occasions over the years.



*Figure 3: Modifications to reduce roof access by detainees.*

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<sup>17</sup> Until 2010, the published design capacity of Banksia Hill, was 120 detainees, however, that included eight beds in the dedicated regression wing and 16 beds for self-care. The peak population in May 2010 was only able to be accommodated by the commissioning of Turner Unit which added 24 beds to the design capacity, despite some unresolved construction deficiencies. In the first half of 2011, a further 12 beds were added to design capacity, with the completion of Harding D Wing but 12 self-care beds were lost for redevelopment as part of the young women and girls precinct, leaving 144 beds able to be used at the time of the Inspection.

- 3.4 Major works were also commenced in early 2010 in stage one of the Banksia Hill redevelopment. This included construction of extra accommodation wing in Harding Unit, new junior school buildings and workshop, and expanded reception, medical and staff facilities. Stage one was essentially complete at the time of the inspection in June 2011. This building program caused no real disruption or loss of amenity, but the opportunity presented by unsecured scaffolding in an unguarded building site, led to Banksia Hill's first actual escape in August 2010.
- 3.5 The escape was followed in November 2010, by a particularly dangerous escape attempt by another detainee through his cell ceiling at night, and a similar attempt two months later. These events triggered further works to strengthen cell ceilings in all units coincident with commencement in early 2011 of stage two of the Banksia Hill redevelopment. Stage two includes creation of a women and girls precinct, construction of a further male unit, conversion of an existing structure for programs and canteen, and extensions to case planning, visits and psychological services.
- 3.6 While every effort has been made to limit the impact of stage two works on the centre program for detainees, three of the self-care cottages were incorporated in the area being developed for the young women and girls precinct. Detainees were compensated for the closure of these self-care cottages by the creation of an 'A plus' privilege status which could apply in any residential wing.<sup>18</sup> However, the displacement from self-care, and displacements from units caused by progressive unit renovation works and cell-ceiling strengthening works at a time when numbers were high caused considerable disruption to accommodation arrangements in the months leading up to the inspection.

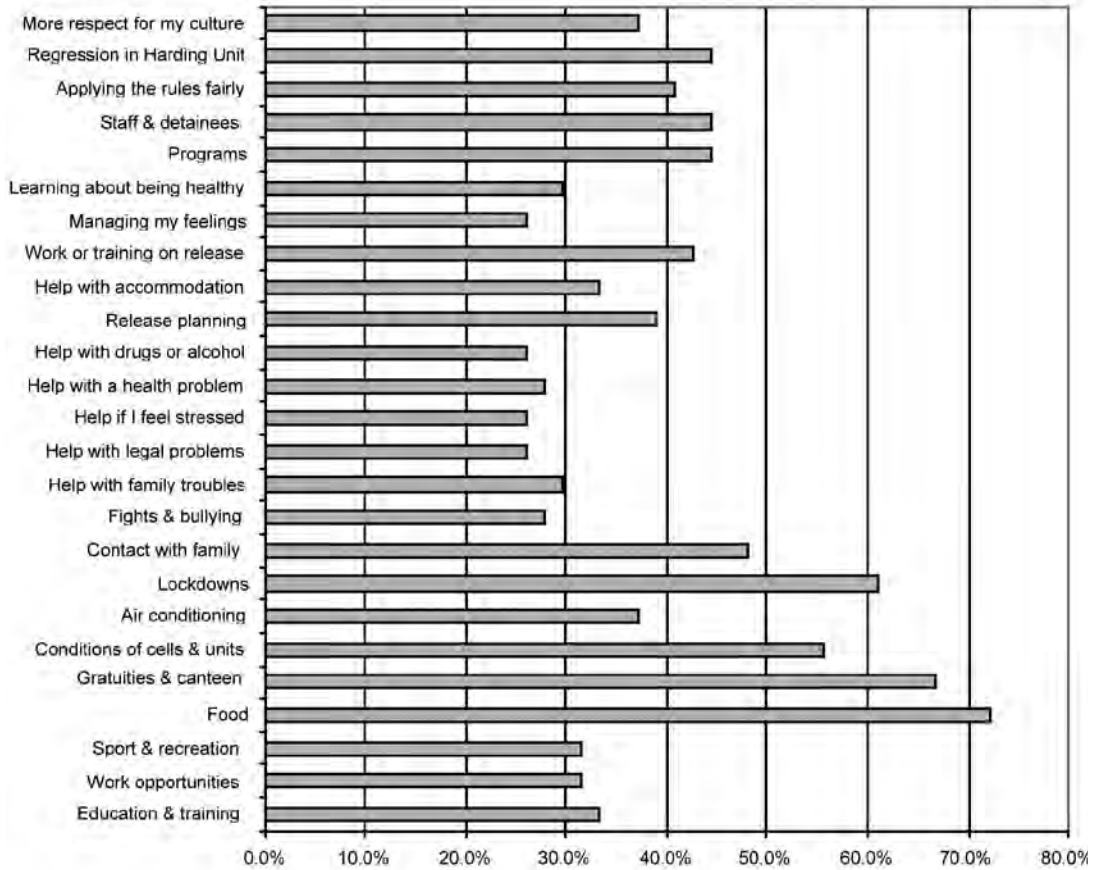
#### THE DETAINEE SURVEY

- 3.7 As stated earlier, on the first day of the inspection a brief survey was administered to all detainees in their classrooms or workshops explaining the inspection process and asking them what areas they thought the Office should examine. Twenty-five areas or issues were listed and detainees were free to tick any number of them.
- 3.8 The following chart shows the results of this survey and gives a broad indication of the issues that young people considered important at the time of the inspection. This does not necessarily mean that young people were unhappy with how the centre managed each of these issues. For example, while contact with family rated third highest in this survey, there was no general view by detainees that the centre was failing to do what they could to facilitate family contact.

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18 'A' Plus detainees have access to games machines, take-away food once a fortnight and first choice in the afternoon recreation program.

*Issues identified for the attention of inspectors by young people at Banksia Hill*



3.9 As can be seen from the above, food was the issue that was of most concern to young people and this was confirmed during detainee interviews as being a significant problem area, as did the fourth-ranked issue, the condition of cells and units. The issue ranking second in importance – gratuities and canteen – emerged in interviews as more of a middle-ranking problem for the young people. In interpreting the above results it must be understood that not all issues were necessarily relevant to all detainees. For example, getting help with legal problems would usually only be of immediate concern for those on remand, while getting help with a drug or alcohol problem would be relevant only for those with certain histories and insights into their addiction.

3.10 Although the survey was very helpful to inform the inspection, the discussion that follows is mainly based on the views of the 32 young people individually interviewed by inspectors.<sup>19</sup> Interviews covered a similar range of topics to the survey using an interview schedule which included both a limited number of questions requiring a simple response and open questions, allowing young people to expand on issues raised as they saw fit. Interviewers referred to the survey completed by each interviewee to ensure they had the opportunity to expand on any issues they raised in the survey.

<sup>19</sup> Young people in the survey were asked if they wanted to speak to an inspector. Twenty three said yes and another 12 said maybe. Some of these were unavailable or changed their mind and a few younger detainees and detainees from remote areas were interviewed to balance the demographics.



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**INDUCTION AND ORIENTATION**

- 3.11 It was clear from interviews with young people at Banksia Hill that induction and orientation of new detainees was ad hoc and limited in scope. Asked how they learned about life at Banksia Hill, 16 (50%) said they had been detained there before, nine (28%) said they had learned from friends or family also detained in the centre, eight (25%) said they had learned from officers and three (9%) said that no one had helped them learn about life at the centre. Only four recalled being given a tour of the centre. None recalled having seen a presentation or receiving written materials. The average rating given by these detainees for orientation was 2.1 (on a scale from one to four).<sup>20</sup>
- 3.12 The Harding A Wing has generally been used as the orientation unit at Banksia Hill. While new detainees are assisted to settle in by staff in their early days at the centre, there is no set period or structure for the orientation process. The only formal element appeared to be the completion of the Juvenile Orientation Checklist by a youth custodial officer following an interview with the detainee within a day or two of admission to the facility.<sup>21</sup>
- 3.13 The checklist is a tick-box form and is not evidence in itself that a comprehensive orientation process has taken place. Examination of detainee records on TOMS indicated that many detainees had not had a formal orientation during their current stay at Banksia Hill. Most, but not all, had one or more prior orientations recorded, either for a previous stay at Banksia Hill or at Rangeview. The fact that young people stated they primarily relied on each other or on prior experience for information about the centre meant there was a high possibility that detainees could have incomplete or incorrect information about the processes, services and rules of the centre and of their own responsibilities.
- 3.14 In the Office's opinion, Youth Custodial Services should use the imminent amalgamation of remand and sentenced youth custodial operations at Banksia Hill as an opportunity to comprehensively reform the orientation program. It is noted that there will need to be different versions of induction and orientation including for young people entering the centre for a short time on arrest status; for those remanded in custody for any period; for those sentenced to detention; and for those returning to the centre having breached a release order. Consideration should also be given to the need for different resources and methodologies for younger children and for females. In any reform of the orientation program the following elements should be considered:
- The provision of audio visual and written resources, including a comprehensive manual for all new detainees.

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20 Detainees were asked to rate the relevant attribute as bad, ok, good, or very good. If they answered bad, the response was coded as 1, ok was coded as 2, good as 3 and very good as 4. Those who actually responded to the question were counted for the purpose of calculating the average.

21 The officer completing the Orientation Checklist is supposed to confirm that the young person has been informed of the whereabouts of copies the *Young Offenders Act*, the Juvenile Custodial Rules and the Detainee Handbook. Management confirmed that copies of the Youth Custodial Rules and Banksia Hill Detention Centre Standing Orders are available in the detainee library, but there is no Detainee Handbook. In response to feedback during the inspection about inadequate detainee orientation, the Office was informed that a Detainee Handbook would be compiled.

- A personal introduction for each detainee to appropriate service providers and potential supports in the centre including psychologists, teachers, case planning officers, Aboriginal Welfare Officers, recreation officers, health centre staff and the canteen officer.
- The involvement of peers in detainee orientation and support.
- A physical tour of the centre (regardless of prior knowledge).
- Closer engagement with the health centre for initial screening, detoxification, other health assessments, health education and treatments.
- Participation in brief intervention programs, such as the Health In program, which addresses health and substance use issues for people coming into a custodial environment.
- Provision for early family engagement, for example, by hosting the first family visit and including a tour of the centre and provision of information about how it operates.
- An introduction to and discussion with the Unit Manager for the unit to which they will be placed.<sup>22</sup>
- Allocation of a defined area or areas where orientation or induction always occurs (not necessarily residential).

*Recommendation 1*

*Reform the orientation program for young people newly received into detention.*

**FOOD**

- 3.15 Food was the major issue that emerged through the survey and interviews with young people. Many of the youth complained that the food was fatty and greasy, contained insufficient vegetables and proteins and was at times inedible. They believed the food was not fresh and not sufficiently nutritious. The Office has received strong complaints about food in Western Australian custodial facilities in the past, but these have decreased significantly in recent years. It was therefore of concern that this remained such an issue at Banksia Hill. It was also unexpected in light of the apparently well-run kitchen and the strong emphasis placed on involvement and training of youth within the kitchen.
- 3.16 There were also complaints from detainees about a lack of choice in meals and particularly of culturally representative food such as kangaroo meat. Management stated that kangaroo and other bush meats had been provided for barbeques organised by certain youth custodial officers, but this did not happen when those officers were on leave.<sup>23</sup> There were seven African youth detained in the centre at the time of the inspection and while they did not complain, interviewees indicated they would also like having more familiar food sometimes.

22 Ideally the young person would get to know an officer assigned to support them throughout their stay as would be the case in most other states. However, no such system has been possible in Western Australia's detention system since the 12-hour shift system was introduced when Banksia Hill opened in October 1997.

23 It should be noted that Aboriginal boys at Banksia Hill differentiate themselves by region and that preparation of kangaroo meat may differ between these groups.

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- 3.17 The closure of the three self-care cottages (for the development of the young women and girls precinct) meant that those boys previously in self-care had lost the opportunity to prepare their own food. This was missed by some of the boys interviewed. However, the Office was advised that detainees in some units could assist unit staff to prepare meals on weekends when no evening meal is prepared by the kitchen. In addition, one of the incentives given to those who had earned 'A plus' privileges was the option to order take-away food once a fortnight, although there was disappointment that pizza was the only choice.<sup>24</sup>
- 3.18 Management was confident that the food supplied was nutritious and within relevant guidelines and were hopeful that a change in the presentation of food (which coincided with the start of the inspection) would make it more palatable. The kitchen had recently abandoned the issuing of reheated single-portion packaged meals which had been cooked one or more days in advance in favour of a more traditional institutional system in which most meals were fresh-cooked and distributed in trays for serving in the units. The new system certainly had an impact on the freshness of the food, but young people were not yet convinced the food was any less fatty or any more nutritious.<sup>25</sup>

#### LIVING CONDITIONS

- 3.19 Banksia Hill began operation as a youth custodial facility in October 1997. At that time the cells were impressive, as some of the first in the youth custodial system in Western Australia with their own showers and toilets. However, they have since become degraded, not only through normal wear and tear, but also through intentional damage and graffiti. As discussed above,<sup>26</sup> since the Turner Unit was completed, a team of detainees has been involved in progressively painting all cells and common areas in the centre and some of the fittings in unit kitchens have also been upgraded. Despite this renovation work, mirrors, windows and various other fittings remained scratched with graffiti, which some of the youth found distasteful.
- 3.20 The young people interviewed also said that the cells were cramped and lacking basic furniture such as chairs and storage for personal belongings. Most detainees had very few belongings in their cells, generally only library books, magazines, toiletries, clothes and a centre-issued television. Some had posters on the walls and others had CD players and CDs that they had purchased through the canteen.
- 3.21 The main concern of detainees about their cell conditions was that they typically spend approximately 14 hours each day locked in their cells<sup>27</sup> with little to do other than watch television or read. There is nothing to eat or drink other than snack food from the canteen and water from the tap. There is nowhere to sit (other than on the bed, no room to exercise, no chair to use at the desk to study, write letters or do hobby work, and no one to talk to. Computers have never been allowed in cells in juvenile centres, but games machines have sometimes been provided as behavioural incentives, latterly for those with 'A plus' status.

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24 When this was reported to management, it was stated that purchasing systems currently precluded the offering of other take-away food options but that a further effort would be made to extend the available choice.

25 Young people confirmed during a visit two months after the conclusion of the inspection that the food definitely tasted better and the quantity supplied was more generous.

26 See para 3.2.

27 Thirteen hours overnight and one hour after school.

### AIR-CONDITIONING

- 3.22 With the exception of Harding C Wing (in which detainees with behavioural issues are temporarily placed) none of the accommodation units and standard cells at Banksia Hill have air-conditioning. The lack of air-conditioning throughout the centre (and especially in areas such as the gym and some workshops) is an issue which has been consistently raised by detainees and staff since the summer prior to the 2008 inspection. This continued to be the case in the lead-up to the current inspection. Staff said that in hot weather, their working conditions were intolerable and that tension among detainees during those times was difficult to manage. Young people interviewed in the 2011 inspection said that the summer heat caused sleeping problems and sometimes led to tensions between detainees. Some also said they found their cells too cold and draughty in the winter.
- 3.23 In 2008, centre management sought funding to install evaporative air-conditioning in the units, but this was not supported by Government.<sup>28</sup> During the present inspection, management informed the Inspectorate that units were originally designed to maintain a cooling airflow into cells, but that this had been compromised by clogging of vents in the ceiling. These were progressively being restored as part of the program to strengthen cell ceilings. In addition, personal fans are issued to detainees during summer and extra blankets may be requested by detainees during winter.

### CLOTHES

- 3.24 Detainees expressed a view that much of the clothing issued to them on arrival at Banksia Hill was old, ill-fitting and dirty. A number of detainees claimed to have been issued second-hand underwear. Centre management was concerned at this feedback and insisted that the issuing of second hand underwear was contrary to centre policy and undertook to ensure policy was followed.
- 3.25 Once issued, underwear and other clothing becomes the responsibility of detainees and they are required to wash their clothes individually in their own wings. Detainees also said they would like to be issued with specific sporting gear such as shorts and shoes, instead of wearing their everyday clothes for sporting activities.

### CANTEEN

- 3.26 The canteen was a popular subject among the detainees and ranked second in the survey. There was a significant degree of support for the canteen service and the range of goods provided; however, a number of detainees were unhappy that there was a \$10 spending limit on consumable items such as snack foods and that only one soft drink could be purchased on each occasion. Staff said that these restrictions were in place because such items had been used for gambling in the past. When detainee feedback was raised with management during the inspection, it was acknowledged that the spending limit was now dated and that it should be increased.

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28 Office of the Inspector of Custodial Services (OICS), *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 58 (December 2008) 24.

- 3.27 Some young people expressed frustration that CDs available for purchase through the canteen were expensive, limited in range and took too long to be delivered after ordering. Others requested that certain items be added to the canteen, including chocolate milk and different sunglasses and hats than those currently available. Many other canteen requests have been noted in Independent Visitor reports from both Banksia Hill and Rangeview. Management will need to carefully examine the range of goods available for purchase from the canteen, especially when young women and girls are transferred to their new precinct in Banksia Hill.
- 3.28 The Banksia Hill canteen was originally designed as a café to provide work experience and a social opportunity for detainees but it has never been used in this way. Rather it has been operated by staff filling orders. In some adult facilities, canteens double as self-serve shops to supply self-care accommodation areas in the facility. There would seem to be room for a more imaginative approach to operating a canteen in a youth facility along the lines of some of the adult facilities within the system, including the original premise of a café offering training opportunities.

#### GRATUITIES AND GIFTS FROM OUTSIDE

- 3.29 Juvenile gratuity levels are much lower than those available in adult facilities. The standard rate is \$3.14 per day (\$21.98 per week), except for those on regression who receive \$1.84 per day (\$9.94 per week).<sup>29</sup> Additional gratuities are paid as incentives to the better behaved detainees in self-care wings or holding golden cell status, to those with additional duties in units (wing captains, laundry, garden), to full-time workers (cleaning, gardens and kitchen) and those involved in certain work or training projects, such as the painting project.
- 3.30 Additional gratuities are paid essentially as a weekly bonus, not as in the adult system by changing the level of the gratuities. Such bonuses are relatively modest at between \$4 and \$20 per week. It is likely that only the most disciplined detainees are able to save funds for more-expensive items able to be ordered from the canteen or to assist them on release.
- 3.31 There is also much less opportunity for youth and children in detention to receive funds from their families than is allowed in adult facilities. There is a limit of \$20 that may be placed into their private cash account at Christmas time and for their birthday, and this money may only be spent in the canteen in a single transaction, unless otherwise approved. Families cannot bring food to visits and are also actively discouraged from bringing or sending books, magazines, CDs or other items to detainees. Centre management stated that requests by detainees to receive such items have often been approved, especially for those detainees from regional areas. The problem is that many detainees (and some staff) are unaware that they may request permission to receive items from family. This may be a consequence of the inadequate system of induction and orientation and the general lack of reference material about the rules in the centre.

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29 Adults working, studying or undertaking approved programs in prison receive gratuities in the range of \$26.67 to \$82.74 per week depending on their role.

*Recommendation 2*

*Liberalise the rules relating to gratuities, products available in the canteen, items allowable in detainee cells and what families are able to provide to young people in detention.*

**RECREATION**

- 3.32 Young people were only barely content with the range of activities available to them in the centre and the time available for recreation. This less than enthusiastic response was surprising given that organised sport and other recreation activities are usually available for one session every weekday and often on weekends as well. Each Sunday detainees can nominate their preferred activities for each of the five weekdays of the following week. Detainees on A plus' privileges are given first choice of activities. Units also have their own recreation options such as a half basketball court, trampoline, table-tennis tables and television area.
- 3.33 There have also been some excellent sporting events organised at Banksia Hill including involvement in Reclink activities in which teams from the community attend the centre for football matches and running events. An annual fun run is held within the centre and a marathon run was being organised for late 2011. One of the units also has a morning fitness program which has been welcomed by detainees.
- 3.34 The main concern of the more negative views expressed was the weekday lockdown in cells for up to one hour immediately after school. While some appreciated having a rest after school, most stated they were frustrated that they were confined to cells during this period to facilitate a staff break.<sup>30</sup> Detainees reported, and staff acknowledged, that there had also been unscheduled lockdowns during staff shortages. These were especially common in April and May 2011 and mainly occurred on weekends. This meant that weekend recreation activities organised by unit staff were greatly reduced or cancelled during this period. Detainees also reported that weekend activities had become less common, even when there were no lockdowns, and that the session observed by the Office during the inspection was the best that had occurred for some months.<sup>31</sup>

30 Detainees also complained they were been locked down early each night, generally before 7.00 pm and unlocked as late as 10am on Saturdays. This is contrary to the centre timetable in Standing Order 4, which states that lockup should be at 7.30 pm on weekdays and 8.00 pm on weekends and unlock at 7.30 am every day.

31 During a visit to the centre ten weeks after the inspection the Office was informed that weekend lockdowns caused by staff shortages had resumed immediately following the inspection, and that sporting activities on weekends were infrequent.



*Figure 4: Empty oval and recreation areas during after-school lockdown.*

- 3.35 Detainees also complained about the limited range of organised activities on weekday afternoons. For example, it was stated that there was too much indoor soccer, when detainees preferred basketball or football. There were also complaints that participation in football was too often restricted to those involved in the Reclink competition team and that other detainees wanted the opportunity to play more often and take part in training. Others expressed a preference for greater availability of non-sporting activities and for a better range of recreation options within units.

*Recommendation 3*

*Reduce the number of scheduled and unscheduled lockdowns of detainees.*

**HEALTH CARE**

- 3.36 There was strong consensus among the detainees that were interviewed that they had good access to health care and that their health was well looked after. The inspection team was told that if detainees sought medical attention they were usually seen by a nurse the same day and referred to a doctor or other service as needed. There were, however, a small number of individual complaints about delayed treatment, the treatment provided or negative interaction with medical staff. The Office understands that custodial staff shortages have sometimes reduced access to the health centre which may have been the source of complaints about delays.
- 3.37 The inspection team on this occasion did not have the opportunity to comprehensively review service provision in the health centre at Banksia Hill, nor to explore limitations in mental health, addictions and health promotion services. However, we were informed that a mental health nurse position had been created and that further reforms in youth health were currently being reviewed by a departmental working committee.

## FAMILY VISITS

- 3.38 Contact with family was the fifth-highest ranking issue in the detainee survey. Of the detainees interviewed by the inspection team, 18 (58 per cent of those who answered) said they received enough visits. Four (13 per cent) were from the metropolitan area and were not happy with the number of visits they had. Nine (29 per cent) were from regional areas and would not have received visits. For the latter group, their contact with family was necessarily conducted via phone or through ‘video visits’ (see below). Fifteen of the detainees interviewed (47 per cent) said they thought the visit centre was satisfactory. Generally, detainees complained that the visits area was often crowded, was uncomfortable and lacked privacy. In regard to the latter, it was understood that more than one family was sometimes required to share a table.
- 3.39 Detainees were also asked whether they would like to be able to do other activities with their visitors. Seventeen (53 per cent) answered in the affirmative. Detainees suggested that they would like the opportunity to move around the visits area with their visitor and show them around the centre. The availability of food during visits was another issue with some detainees suggesting they would like the opportunity to have a meal or a barbeque with their visitors or to buy food and drink to share from the canteen or a vending machine. Suggested improvements to the visits area included separate booths and a play area for children.



*Figure 5: Youth making their way to a visit.*



- 3.40 Issues with the visits centre were highlighted in previous inspection reports in 2005 and 2008 so it was disappointing to find in 2011 that they remained unaddressed and had become worse as numbers had increased.<sup>32</sup> The Office is aware that an expansion of the visits area is planned as part of the Banksia Hill redevelopment project and it is hoped that these issues will be addressed as part of this redevelopment. The following recommendation is focussed less on the visit centre itself and more on ways to enhance the quality of interaction between young people and their families.

*Recommendation 4*

*Implement strategies and practices with respect to social visits to improve the quality of interaction between young people and their families.*

**PHONING FAMILY AND FRIENDS**

- 3.41 Isolation can often be at the root of detainee distress and misbehaviour so it is important that detainees have sufficient opportunity to communicate with family and friends. Detainees reported that this was sometimes difficult because the telephone-system broke down too often and the number of telephones in units was inadequate. Management confirmed there had been outages with the telephone system, which was less than 12 months old, but that these had been resolved. In respect of the number of telephones available for detainee use, the Office found that while there was the potential for congestion at peak times, there were sufficient telephones available and that they were accessible to detainees at various times throughout the day.
- 3.42 The inspection team was impressed with the number of regional detainees who said they had recently had a video visit with their family; this was an area of weakness at previous inspections.<sup>33</sup> It is understood that Banksia Hill (with Youth Justice Services in the Goldfields) is discussing the trial of a system of video visits using Skype; however, the trial had not commenced at the time of the inspection so its effectiveness was unable to be evaluated.

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32 Office of the Inspector of Custodial Services (OICS), *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 37 (September 2006), para. 4.84–90 & Recommendation 13; Office of the Inspector of Custodial Services (OICS), *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 58 (December 2008), para. 3.43–45, Recommendation 6.

33 Although there were also complaints about the time taken to arrange such visits.

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**FEELING SAFE AT BANKSIA HILL**

- 3.43 The issue of fights and bullying did not rate highly in the detainee survey. Most of the detainees interviewed felt quite safe at Banksia Hill. The average rating of their sense of safety was 3.1 on a scale of one to four and their freedom from bullying was 3.3 on the same scale.<sup>34</sup> This is a good sign but is not in itself a pass mark for the ‘healthy prison’ test, which requires that even the most vulnerable are held safely.<sup>35</sup>
- 3.44 Although a number of detainees thought that bullying was not a problem, and said that ‘most of what happened was just teasing’, there was a consistent view that smaller boys (either in terms of age or physical size) were vulnerable without the protection of bigger boys. Detainees interviewed informed that some of the more vulnerable were youth from regional areas who lacked any older family members in the centre to defend them and certain non-Aboriginal youth from the metropolitan area who also seemed to lack protectors.
- 3.45 Some detainees expressed the view that officers did not sufficiently supervise detainees, that they failed to protect some of the detainees, failed to stop fights soon enough and handed out insufficient punishment to deter bullying. It was even suggested that certain officers promoted a machismo culture that was less than inclusive and that the officers were also bullying and abusive to detainees. These issues are explored further in chapter 4.
- 3.46 Some young people raised time spent in cells (including lockdowns) as a potential safety issue. They stated that they felt vulnerable to their own feelings when left alone to dwell on certain issues, which we understood to mean they thought they may attempt self-harm, suicide or cause damage to their cell or property. Others felt that the length of lockdowns was a cause of anger and aggression among detainees.

**SUPPORT**

- 3.47 As part of the detainee interviews the inspection team sought to discover what sources of support were available to young people in detention if they were feeling troubled in any way. The following tables show the various people from whom detainees might seek support (they could choose any number of supports) and who they would first approach when seeking support. Of the 31 interviewees who answered these questions, most indicated they would seek mainly support from custodial officers, psychologists, family and friends.

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34 Detainees were asked to rate the relevant attribute as bad, ok, good, or very good. If they answered bad, the response was coded as 1, ok was coded as 2, good as 3 and very good as 4. Those who actually responded to the question were counted for the purpose of calculating the average.

35 The concept of a healthy prison is one that was first set out by the World Health Organisation, but has been developed by Her Majesty’s Inspectorate of Prisons, and is now widely accepted as a definition of what ought to be provided in any custodial environment. It rests upon four key tests: safety: prisoners, even the most vulnerable, are held safely; respect: prisoners are treated with respect for their human dignity; purposeful activity: prisoners are able, and expected, to engage in activity that is likely to benefit them; resettlement: prisoners are prepared for release into the community, and helped to reduce the likelihood of reoffending.

*Sources of support for young people at Banksia Hill*

Would Seek Support From	Number
Youth Custodial Officer	23
Psychologist	17
Friends here	16
Family at home	15
Family here	15
Aboriginal Welfare Officer	9
Teacher	8
Aboriginal Visitor	8
Medical staff	6
Someone else	3
Case planning	2
Supervised Bail Officer	1
Youth Justice Officer	1
Independent Visitor	0
<b>Total responses</b>	<b>124</b>

First Preference	Number
Youth Custodial Officer	13
(Indigenous YCO = 4)	
Psychologist	7
Family here	5
Family at home	5
Friends	1
<b>Total</b>	<b>31</b>

- 3.48 These figures highlight the important role that custodial officers in particular have in supporting the young people in their care. The fact that many detainees would look to them for support in the first instance and most would do so on occasion is a sign that the relationship between detainees and custodial officers is healthy, notwithstanding the issues between them explored in other parts of this report. It should be noted that many of those stating they would seek support from an officer nominated particular officers, and a few mentioned staff they would never approach. Some indigenous youth indicated that they would seek support only from certain Aboriginal officers, or from other Aboriginal support staff or the Aboriginal Visitors.
- 3.49 The importance of networks of family and friends was also evident: many of the respondents said they would seek support from brothers, cousins or friends of a similar background. Some sought support only from their own parents, siblings or girlfriends on the outside. Virtually absent in these findings are those responsible for detainee case management: case planning staff on the one hand, and youth justice officers on the other; this is explored further in chapter 6.

- 3.50 The dependence by detainees on support from specific youth custodial officers in combination with the shift system for these staff, creates a level of risk which is not easily able to be addressed. Youth custodial officers in the centre work on a 12-hour shift system which can include as few as one in three days on day shift when they may have contact with detainees, depending on the shift location. They are also entitled to over eight weeks leave per annum not including any sick leave, other personal leave or long service leave. It is also the case that the ratio of officers working in a direct care or supervision role with detainees is eight-to-one, a very high ratio compared to other Australasian jurisdictions and the United Kingdom where ratios are commonly three-to-one, or four-to-one, and less commonly six-to-one.
- 3.51 All this means that it is difficult to build and maintain relations between particular officers and particular detainees. One young person said: ‘sometimes you can’t get help for stress; some officers will just put you in your cell instead of sitting down and talking with you’. Efforts to recreate the old system of each worker acting as a mentor to one or more assigned detainees (an assigned worker or key worker system) have never worked at Banksia Hill because of the shift system. This creates a level of risk for young people and the centre as the particular officers young people look to for support may be absent for days or weeks. The problem is particularly acute for those seeking support from one of the small number of Aboriginal staff.

#### RELATIONS WITH STAFF

- 3.52 Young people interviewed were asked whether staff at Banksia Hill do a good job by rating each staff group on a scale of one to four.<sup>36</sup> The question was chosen to try and obtain a more dispassionate view by young people of their thoughts about staff, than one focused on directly on how they ‘got on’ with those staff, or whether they liked those staff. After all, young people may not like being disciplined by staff, but nevertheless respect the job they have to do. Average ratings by detainees interviewed for each staff group are listed below together with the number who provided a rating for that staff group. The inclusion of Supervised Bail/Liaison Staff (based at Rangeview) was because of their involvement with those on remand at Banksia Hill.

#### *Average ratings of youth views on how staff groups do their jobs*

Staff Roles	Average Rating	No. Who Answered
Shift Manager	2.7	27
Officers	2.1	31
Teachers	2.8	31
Aboriginal Welfare Officers	2.8	22
Medical staff	2.8	30
Supervised Bail or Liaison Officers	3.0	9
Psychologists	2.9	30
Case Planning	2.9	27

36 Detainees were asked to rate how each staff group did their job as bad, ok, good, or very good. If they answered bad, the response was coded as 1, ok was coded as 2, good as 3 and very good as 4. Those who actually responded to the question were counted for the purpose of calculating the average.

3.53 As can be seen from the above, most staff groups were rated at a similar high level, except for custodial officers who received a mid-level rating. Quite a few said they thought there were some really good officers, but that some were bad. One detainee said that ‘how detainees are treated depends what respect they show to officers’ and it was observed that some detainees did not always give staff the respect they deserved. The following table shows the top four issues expressed by young people in relation to custodial officers, with examples of the way in which these issues were expressed in interviews.

**Key issues from youth views on custodial officers at Banksia Hill**

Key issues	Examples of views expressed by young people in interview
Officers sometimes bring personal issues to work and make life difficult for the young people	<i>Some come into work in a poxy mood and take it out on us, pick on every little thing. If something happens at home they shouldn't bring it to work and make us do it bad.</i>
Officers are sometimes rude or insensitive to young people and less than helpful	<i>Some officers take the piss out of us when we have problems (like after a bad phone call). Bad ones: you ask them to open cell or open a cupboard, they say 'just wait', then forget; even though we ask nicely, they don't help, they don't really care. Staff just sit around, standing, laughing with each other. Some shift managers and officers have a bad attitude; they'll talk to you as if they're going to fight you. When you get out, some staff say "see you soon". They shouldn't be saying that sort of thing, treating you like that! Some officers are racist.</i>
Some staff pick on and provoke young people to misbehave	<i>New officers are arrogant and don't listen, they pick at kids until they react eg following a bad phone call – old officers are cool, they give you chance to speak. A mate had a fight, since then the 'sirs' are always picking on him, trying to get him into trouble. Some officers work you up, set you up and gang up on you – I was kicked out of A Wing as an officer thought I was talking about him, he got in my face, I pushed his hand and got coded. Some officers are abusive; some will shred your request in front of you and tease you. Some male officers call the female officers 'little bitches' if they try to intervene against teasing or otherwise try to help you.</i>
Some officers are unfair or too quick to discipline young people	<i>Some officers are bad, they just lock me in my cell for nothing, sometimes I just hate them. Some are very strict and grumpy. One officer is a problem, he's usually ok, but in the gym he can suddenly send you to cell.</i>

- 3.54 Although some of these reflections and allegations are quite concerning, it was not the purpose of this inspection to investigate specific instances referred to by the young people. However, in some respects, perception may be as important as reality and these comments collectively provide a picture of how custodial staff may be perceived by detainees. When viewed in light of information from other sources, such as incident reports and Independent Visitor reports, these comments also suggest that there are aspects of how some staff interact with detainees that are less than healthy and deserving of reform. Management should consider how best to address this finding.
- 3.55 While other staffing groups were regarded more positively for the most part, there was also some negative feedback from young people. Some teachers and instructors were considered hard to relate to or rather too quick to have youth disciplined by custodial staff, Aboriginal Welfare Officers and others from case planning did not always provide the attention or follow up that detainees expected, and interaction with psychologists was sometimes considered an unwanted intrusion. It is not possible to draw broad conclusions, but each of these areas is touched on in other parts of this report.

# Chapter 4

## MANAGING MISBEHAVIOUR

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### INTRODUCTION

- 4.1 The *Young Offenders Act 1994* (the Act) governs the treatment of children who come into contact with the criminal justice system in Western Australia. It covers a wide range of matters, including diversion from court, court proceedings, sentencing options, the establishment of detention centres and some aspects of detention centre administration.
- 4.2 One of the key principles in the Act is that detention is the sentence of last resort.<sup>37</sup> Children should only be sentenced to a term of detention when their behaviour in the community leads the court to conclude that no other community based sentence is appropriate and that detention is the only option. Almost invariably, young people sentenced to detention face a multitude of complex personal and developmental challenges. Commonly, these include histories of victimisation, traumatisation and substance abuse and mental health problems. They can pose complex challenges in terms of behaviour management, and detention centres must have a range of options to deal with such behaviour.
- 4.3 The *Young Offenders Act* contains a number of objectives and general principles which apply to all actions taken under the authority of that Act. Broadly speaking, the Act aims to strike a balance between the rights of the community and the rights of children. On the one hand, it seeks to ensure that the 'legal rights of young persons involved with the criminal justice system are observed'<sup>38</sup> and, on the other, to encourage a sense of social responsibility and personal development on the part of the young person.<sup>39</sup> It encourages the use of measures other than formal sanctions as far as possible and requires that action be taken within a time frame that is appropriate to young people's sense of time, and with due regard to their age, maturity and cultural background. These objectives and principles were modelled on the language of international covenants relating to the treatment of children in custody. They also reflect accepted best practice in Australia.<sup>40</sup>
- 4.4 In all, there are at least five levels of rules which apply in this area. First and foremost is the *Young Offenders Act* which is bolstered by the *Young Offenders Regulations 1995* (the Regulations). In addition, the Department of Corrective Services has developed three sets of rules. In rank order they are Juvenile Custodial Rules, Standing Orders and Operational Procedures. All of the Department's various rules derive their authority from the *Young Offenders Act*<sup>41</sup> and the Regulations, and must therefore be consistent with their general principles and specific wording.

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37 Section 7 lays down a number of general principles of juvenile justice, and section 7(h) states that detention in custody 'should only be used as a last resort and, if required, is only to be for as short a time as is necessary.'

38 *Young Offenders Act 1994* s 6(c).

39 *Young Offenders Act 1994* s 7(j).

40 United Nations; *Convention on the Rights of the Child* (1989); United Nations, *Standard Minimum Rules for the Administration of Juvenile Justice* ('The Beijing Rules') (1985); United Nations *Rules for the Protection of Juveniles Deprived of their Liberty* (1990); OICS, *Code of Inspection Standards for Young People in Detention* (2010).

41 *Young Offenders Act 1994* ss 196 (regulations) and 181 (rules made by the CEO). If there is any inconsistency between a rule made by the CEO and the Regulations, the Regulations prevail.

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AVAILABLE OPTIONS

- 4.5 Several options are available to manage problematic behaviour by young people in detention centres. As part of this review, the Office undertook a detailed audit of the operation of the ‘individual regression regime’, and this is discussed in chapter five. However, as the work progressed, it became increasingly clear that regression cannot be understood in isolation and that there is some confusion ‘on the ground’ about the proper role of regression relative to other options. The scope of the work therefore expanded to address broader issues, including the legal framework for managing misbehaviour, the options available, and the role of regression within those options.
- 4.6 The highest level of intervention is for the matter to be referred to the police and thence to the Children’s Court (a process which is applicable only to criminal matters such as serious assaults). The next level, prescribed by the *Young Offenders Act* itself, is the formal process of laying and hearing a charge for a ‘Detention Offence’. Detention offences cover some potentially criminal matters as well as some more ‘disciplinary’ matters.<sup>42</sup> Both of these responses are essentially ‘punitive’: their primary role is to impose a formal sanction for proven wrongdoing. And both involve judicial or quasi-judicial processes.<sup>43</sup>
- 4.7 The Department’s Juvenile Custodial Rules and Standing Orders provide some less formal options to manage ‘adolescent behaviour ... which is ... disruptive to the good order and security of the Detention Centre but its degree does not warrant the laying of a Detention Centre charge’.<sup>44</sup> The underpinning principles are to ensure that ‘consistent, fair and relevant consequences shall be imposed for inappropriate behaviour’<sup>45</sup> and, consistent with the principles of the *Young Offenders Act*, ‘good behaviour management practices must be exhausted prior to imposing a formal management option.’<sup>46</sup> Subject to these principles, the main options are as follows:<sup>47</sup>
- Caution
  - Counselling
  - Loss of privileges
  - Loss of gratuities
  - Additional domestic work or other duties
  - Cell confinement within the young person’s living unit
  - Regression from a privileged accommodation level to a normal unit
  - Placement on an ‘individual unit-based regime’
  - Placement on an ‘individual regression regime’
  - Confinement in a nominated cell

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42 See para 4.10.

43 See paras 4.9–4.15.

44 *Juvenile Custodial Rules*, Rule 209 – Management of disruptive adolescent behaviour other than by a charge of a detention offence, as approved by the Minister of Corrective Services on 17 July 2008 (hereafter referred to as Juvenile Custodial Rule 209).

45 *YCS Standing Orders*, Order 9 – Management of disruptive behaviour other than by a charge of a detention offence, as approved by the Director and Superintendents, Department of Corrective Services on 30 June 2009 (hereafter referred to as Standing Order 9).

46 Juvenile Custodial Rule 209.

47 Standing Order 9, s.3.



- 4.8 Of these, confinement in a nominated cell is the most serious intervention. It is only to be used 'as a last resort' and is subject to specific Juvenile Custodial Rules.<sup>48</sup> Loss of privileges is also governed by a Juvenile Custodial Rule.<sup>49</sup> The other options, including individual regression regimes, are found only in lower level 'rules', such as Standing Orders and Operational Procedures. The main focus of this report is on those interventions which lead to confinement in a restrictive regime, namely, confinement for a detention offence, confinement in a nominated cell for management purposes and regression.

#### DETENTION OFFENCES (*YOUNG OFFENDERS ACT 1994*)

##### Legal Basis and Scope

- 4.9 If a young person is suspected of committing a serious criminal offence whilst in detention – such as a sexual assault or a serious physical assault – the matter should be referred to the police and investigated by them. If appropriate, the young person will be charged and will appear before the Children's Court. As with any other criminal charge, the normal legal protections apply, so the young person is entitled to be legally represented and the offence must be proved beyond reasonable doubt.
- 4.10 The next most serious response is a charge of committing a 'detention offence'. The legislative requirements with respect to detention offences are clear, firm and readily accessible. Section 170 of the *Young Offenders Act* defines detention offences in broad terms:

##### **170 Detention offences**

A detainee who:

- (a) disobeys a rule of the detention centre or an order of a person having authority to give the order;
- (b) uses insulting or threatening language or behaves in an insulting or threatening manner;
- (c) prefers a false or frivolous complaint;
- (d) does any act or omission of insubordination or misconduct subversive of the order and good government of the detention centre;
- (e) breaches a condition or restriction of any leave of absence from a detention centre;
- (f) assaults a person;
- (g) escapes or prepares or attempts to escape from lawful custody;
- (h) is in possession of or under the influence of drugs not lawfully issued to the detainee or not taken as prescribed;
- (i) is, without the permission of the superintendent, in possession of glue containing toluene or another intoxicant;
- (j) does not submit for the purpose of having a body sample taken when required under this Act to do so;

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48 Standing Order 9, s.1.6, Juvenile Custodial Rule 209 and *Juvenile Custodial Rules*, Rule 210 – Use of confinement for good government, good order or security confinement (sic), as approved by the by the Minister of Corrective Services on 17 July 2008 (hereafter referred to as Juvenile Custodial Rule 210).

49 *Juvenile Custodial Rules*, Rule 202 – Privileges Extended to Detainees, as approved by the Minister of Corrective Services on 17 July 2008.

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- (ja) refuses or fails to wear when required under this Act to do so a device for the purpose of having a body sample taken or detecting the presence of a substance in the body of the detainee;
  - (k) is in possession of a weapon or a facsimile of a weapon;
  - (l) wilfully breaks, damages or destroys property; or
  - (m) behaves in a disorderly or riotous manner, commits a detention offence.

4.11 It can be seen that detention offences are broadly defined. They partially overlap with the criminal law, notably in areas such as assaults, property damage and disorderly or riotous behaviour. However, many parts of s 170 involve misbehaviour of a disciplinary rather than a criminal nature, such as disobeying rules, using insulting or threatening language and acts of subordination or misconduct which are subversive of the order and good government of the centre.

#### Procedures

- 4.12 The *Young Offenders Act* and the *Young Offenders Regulations* outline in some detail the formal procedures which must be followed for detention offences. Any officer can make a charge but this is to be immediately reviewed by the Superintendent<sup>50</sup> who is, in effect, the system ‘gatekeeper’. After appropriate consultations, the Superintendent may suspend further action for up to two months on condition of good behaviour; direct that the charge be withdrawn or changed; hear and determine the charge; or refer the charge to the Visiting Justice (either if the young person elects this course of action or if the Superintendent thinks it appropriate).<sup>51</sup>
- 4.13 Under the *Young Offenders Regulations 1995*, charges for detention offences must be in writing and must contain details such as date, time, place, details of the alleged circumstances and a description of any damage or injury. The detainee must be provided with a copy of the charge and with adequate notice of the hearing.<sup>52</sup>
- 4.14 At the hearing before the Superintendent or Visiting Justice, the young person is not to be represented by a legal practitioner but can be represented by another suitable person and the Superintendent is required to invite a responsible adult to attend. The procedures that apply are not unlike those that might be encountered in a Magistrates Court but the strict rules of evidence are not applicable.<sup>53</sup>
- 4.15 Unfortunately, the legislation, the regulations and the other rules are silent on the question of the standard of proof required to establish a detention offence. In 2001, the Heaney Report examined in some detail the question of the standard of proof in the context of prison charges against adult prisoners.<sup>54</sup> The report noted that in the majority of jurisdictions, it is well accepted that the standard of proof in such cases is the criminal standard of ‘beyond reasonable doubt’. Heaney also argued that there were strong policy arguments underlying this rule. However, despite this, the disciplinary system for adult prisoners has continued to operate

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50 *Young Offenders Act 1994* s 171(1).

51 *Young Offenders Act 1994* ss 171 and 172.

52 *Young Offenders Regulations 1995* regs 37 and 38.

53 *Young Offenders Act 1994* s 174; *Young Offenders Regulations 1995* regs 38 and 39.

54 P Heaney (in consultation with I Morgan and N Morgan), *Report of the Review of Prisoner Disciplinary Procedures*, Policy and Legislation Division, Ministry of Justice, Western Australia (2001) (unpublished).

on the basis that the lower standard of proof – the balance of probabilities – applies. This would appear also to be the case for children charged with detention offences.

### Consequences

4.16 Section 173 of the *Young Offenders Act* prescribes the punishments applicable on conviction for a detention offence. They are as follows:

- Caution;
- Reprimand;
- Delaying the person's earliest release date by up to three days in the case of the Superintendent and up to seven days in the case of the Visiting Justice;
- Loss of gratuities for up to three days (Superintendent) or seven days (Visiting Justice);
- Confinement to sleeping quarters for up to 24 hours (Superintendent) or 48 hours (Visiting Justice);
- Confinement to a designated room for up to 24 hours (Superintendent) or 48 hours (Visiting Justice);
- Any combination of delayed release date, loss of gratuities and confinement.

4.17 Significantly, both the Superintendent and the Visiting Justice can therefore increase the time a child must spend in custody by way of punishment for a detention offence by altering the earliest date for release. In our audit of penalties imposed for detention offences from 1 July 2010 to 30 June 2011, this power to extend custody time was used quite commonly, in around one third of cases.<sup>55</sup>

4.18 One of the most important principles in the *Young Offenders Act 1994* is that a young person who commits an offence is not to be treated more severely than an adult would be treated in the same circumstances. At the time the *Young Offenders Act* was drafted, adult prisoners convicted of offences under the *Prisons Act 1981* could also have their custody time extended through a 'loss of remission' penalty. However, remission was abolished in 2003 and, with it, the loss of remission penalty. In the case of adult prisoners, custody time can be extended only if the alleged offence is referred to an outside court, with all of the legal protections that entails, and if the court imposes a prison sentence for the offence.

4.19 Removing the loss of remission penalty has not had an identifiable negative impact on adult prisoner discipline and management. Continuing to permit an extension of custody time in the case of children is highly problematic. It breaches the *Young Offenders Act* principle that children should not be treated any more severely than equivalent adults. It is also wrong in principle to add custody time without affording a person legal protections and on the basis of just the civil standard of proof. These arguments are further reinforced by the fact that the *Young Offenders Act* states that custody is to be the option of absolute final resort.

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55 See para 4.39.

- 4.20 The *Prisons Act* is currently being reviewed by the Department and a new *Corrective Services Bill* is being developed. The Bill will include new provisions governing prisoner disciplinary proceedings and it is likely that there will be some changes to the scope of prisons offences and the applicable legal processes. In order to meet the principles of the *Young Offenders Act*, and, in order to meet the concerns raised throughout this chapter and chapter five, it is timely and necessary that there be a review of juvenile detention offences. This review will need to examine the role of detention offences in the context of all possible responses to problematic behaviour. It is also recommended that the Department pursue some specific reforms with respect to detention offences.

*Recommendation 5*

*The Department pursue legislative amendments to the provisions of the Young Offenders Act 1994 to:*

- (i) remove the power of Superintendents and Visiting Justices to impose penalties which increase custody time; and*
- (ii) clarify the standard of proof for detention offence charges.*

*Recommendation 6*

*Review the Young Offenders Act 1994 and all associated regulations, rules, orders and procedures alongside the pending amendments to the adult prisoner disciplinary regime. The outcomes of the review should include:*

- (i) greater clarity with respect to the role of detention offences and other options in managing poor behaviour; and*
- (ii) ensuring that young people in detention are not treated any more severely than if they were adults.*

**‘PUNITIVE CONFINEMENT’**

- 4.21 This report uses the term ‘punitive confinement’ to refer to situations where children are confined in a designated room after being convicted of a detention offence. Punitive confinement is primarily a sanction for a proven past offence. It cannot provide an immediate management response to poor behaviour nor a focused, individualised behaviour management treatment program. Obviously, however, it is hoped that the experience of punitive confinement will lead to better behaviour.
- 4.22 The *Young Offenders Regulations* and Juvenile Custodial Rule 211 (‘Use of Confinement as a Penalty’), place some specific requirements around the use of punitive confinement in a designated room. Juvenile Custodial Rule 211 is, in turn, to be read with the Appendix to Juvenile Custodial Rule 210 which provides a ‘Regimen for detainees placed into cells for purposes of confinement’.

4.23 Unfortunately, although the basic rules are generally clear, there are some inconsistencies between the various documents which should be addressed:

- **Duration.** The maximum period of punitive confinement is 48 hours if imposed by the Visiting Justice and 24 hours if imposed by the Superintendent.
- **Cell suitability.** The Superintendent must assess the suitability of the room for confining the detainee without injury to health.<sup>56</sup> In practice, the designated room will generally be a multi-purpose cell in the B wing of the Harding Unit ('Harding B').<sup>57</sup>
- **Cell conditions.** Multi-purpose cells are intentionally sparse and have a toilet, a sink and a concrete plinth. The cell is under constant camera surveillance and there is a communication device to the control area. Section 2.4 of Juvenile Custodial Rule 211 states that detainees in a confinement cell '*shall be given adequate warm clothing, bedding and reading materials, and these items shall only be withdrawn if they are presenting a risk to the safety and wellbeing of the detainee*' (emphasis added). In other words, there is an entitlement to such items and they must be provided unless there are good reasons to the contrary. In practice, a vinyl covered mattress is generally supplied during the day, with sheets, blankets and pillow provided only at night. Also, contrary to section 2.4 of Juvenile Custodial Rule 211, Appendix 1 to Juvenile Custodial Rule 210 suggests that the provision of reading material is purely discretionary.
- **Searching.** Detainees are to be strip searched prior to placement in a cell. Belts, shoes and other items of clothing that might be injurious are to be removed, and clothing designated for use in the cells must be worn.<sup>58</sup>
- **Exercise.** Under the Regulations, people detained in punitive confinement are entitled to fresh air, exercise and staff company for at least 30 minutes during every three hours during unlock hours.<sup>59</sup> However, the Juvenile Custodial Rules contradict the Regulations in setting a lesser requirement of one hour during the first 12 hours (excluding sleeping time) and one hour every 24 hours thereafter.<sup>60</sup> The Regulations should prevail and the Juvenile Custodial Rules should be amended.
- **Monitoring and documentation.** The Regulations require the Superintendent to maintain a record of any order for confinement.<sup>61</sup> They also state that detainees who are in confinement for a detention offence are to be subject to continuous monitoring for the first 30 minutes of the confinement and at regular intervals thereafter in accordance with a written management regime endorsed by the Superintendent.<sup>62</sup> Juvenile Custodial Rule 211 is inconsistent with this to the extent that it states that in cases where the period of confinement is less than 12 hours, a written management regime only needs to be developed when this is 'deemed necessary'.<sup>63</sup>

56 *Young Offenders Regulations 1995* reg 77(3).

57 If the general multi-purpose cells are full, if the detainees are at risk of self harm, or if they need to be watched with particular care, the observation cells in Harding B are also used.

58 Juvenile Custodial Rule 211, s.3.2.

59 *Young Offenders Regulations 1995* reg 76(3). 'Unlock hours' means the period during which detainees who are not subject to confinement or restraint are able to leave their sleeping quarters: reg 73.

60 Juvenile Custodial Rule 210, Appendix 1.

61 *Young Offenders Regulations 1995* reg 76(1).

62 *Young Offenders Regulations 1995* reg 77(2)

63 Juvenile Custodial Rule 211, r 3.3.

*Recommendation 7*

*Review and report on the Juvenile Custodial Rules and detention centre practices with respect to confinement for a detention offence to ensure full compliance with the expectations of the Young Offenders Act 1994 and the Young Offenders Regulations 1995 in all areas, including exercise, access to reading materials, monitoring and documentation.*

**‘MANAGEMENT CONFINEMENT’ (CONFINEMENT FOR GOOD GOVERNMENT, GOOD ORDER OR SECURITY)**

**Legal Basis and Scope**

- 4.24 Other than extending the child’s custody time, confinement to a designated room is therefore the toughest punishment available to a Superintendent or a Visiting Justice when a child has been convicted of a detention offence. However, the Superintendent also has the power to impose confinement on an entirely separate basis, namely, the good government, good order or security of the centre. This can be called ‘management confinement’ to separate it from punitive confinement.
- 4.25 The *Young Offenders Act* says nothing about this, other than authorising the making of regulations to give effect to such a power, and stating that the maximum period for such confinement is 24 hours.<sup>64</sup> Interestingly, this is the same as the Superintendent can impose for a proven detention offence and yet the legal protections applicable to detention offences do not apply.



*Figure 6: A multi-purpose cell in Harding B Wing.*

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64 *Young Offenders Act 1994* s 196 (2)(e).

4.26 Regulation 74 empowers Superintendents to order confinement for the purposes of good government, good order or security. Section 2 of Juvenile Custodial Rule 210, further explains the grounds for such confinement as follows:

**‘A detainee may be ordered to be confined from other detainees under the following circumstances:**

- 2.1 In order to maintain good government, good order or security in a detention centre.
- 2.2 For the protection of that detainee, other detainees, or other persons or property.
- 2.3 As a means of managing disruptive adolescent behaviour that does not warrant a Detention Centre Charge or Police Charge.
- 2.4 Pending an inquiry into the circumstances of an alleged offence or disruptive behaviour and the decision as to how to deal with the behaviour.
- 2.5 For routine security procedures in accordance with the rules of the Detention Centre.’

4.27 The wording of section 2 of Juvenile Custodial Rule 210 is confusing as it suggests that administrative confinement can be imposed not only for good government, good order or security (2.1) but also for other reasons (2.2–2.5). Legally, administrative confinement cannot be imposed for any reasons other than good government, good order or security. However, this is probably just a matter of clumsy wording and numbering.<sup>65</sup>

### Regime

4.28 The regime and procedures relating to management confinement are very similar to those relating to punitive confinement, set out earlier.<sup>66</sup> However, there are some important differences and some anomalies:

- **Cell conditions.** These are essentially the same as for punitive confinement. However, there is no entitlement to reading materials and access to such materials is purely discretionary.
- **Searching.** Children placed in management confinement must be searched but, unlike those in punitive confinement, the rules do not require strip-searching.
- **Exercise.** Regulation 79 of the *Young Offender Regulations* requires at least one hour of exercise every six hours during unlock hours. However, Appendix One of Juvenile Custodial Rule 210 contradicts the Regulations in setting a lesser requirement of one hour during the first 12 hours and then just one hour every 24 hours. The Regulations should prevail and the Juvenile Custodial Rules should be amended.
- **Monitoring and documentation.** The Regulations require the Superintendent to maintain a record of any order for confinement.<sup>67</sup> Unlike punitive detention, there is no need for a written management regime.

<sup>65</sup> The heading to Rule 210 is also clumsy: ‘Use of confinement for good government, good order or security confinement’ (sic).

<sup>66</sup> See paras 4.21–4.23.

<sup>67</sup> *Young Offenders Regulations 1995* reg 79(1).

*Recommendation 8*

*Review the Juvenile Custodial Rules and detention centre practices with respect to confinement for good government, good order or security to ensure full compliance with the expectations of the Young Offenders Act 1994 and the Young Offenders Regulations 1995 in all areas, including exercise, access to reading materials, monitoring and documentation.*

**RESPONDING TO INCIDENTS**

4.29 Given the breadth of behaviour covered by the definition of detention offences in s 170 of the *Young Offenders Act*, the pre-eminent role of detention offences within the statutory scheme, and the carefully prescribed processes for the hearing of such offences, one might expect this option to be used relatively frequently. This is not the case.

4.30 The Inspectorate’s analysis of incidents at Banksia Hill over the 18 day inspection period from 31 May to 17 June 2011 revealed a total of 77 incidents reports, an average of 4.27 per day. Excluding those people identified as victims, 94 detainees were involved in these incidents. The incidents are analysed by type and consequence in the following table.<sup>68</sup>

***Incidents by Type and Consequences: 31 May to 17 June 2011***

Incident Types:	Assault/ Bullying	Fighting	Threaten/ abuse staff <sup>69</sup>	Drug related	Damage	Contraband or weapon	Other Misconduct	Total
<b>Incident Numbers:</b>	11	11	19	18	15	2	18	94
<b>Responses</b>								
Restrained	1	1		1			1	4
Confined in Harding	11	12	15	10	3		6	57
<b>Consequences</b>								
Police Charge								
Centre Charge				1				1
Loss of Gratuities				1				1
Regression	2		2		1	1		6
Restitution Ordered				2	12			14
Demoted	2	1	1		1		5	10
LOP Contact Visits*				6				6
LOP Program Place		3	6	1			5	15
Work Time	4	4	4				6	18
LOP Canteen	4	3		2	3			12
LOP Recreation	2	2	2	1			4	11
LOP TV	1	4	3	5	1		4	18
Counselled	2		4		1	1	3	11

\* LOP means Loss of Privilege

68 The categories used are broad, and in some instances, an incident potentially belonged to two or more categories, in which case the more serious category was used. OICS has applied its own categories to the incidents, which does not necessarily correspond to those by DCS. For example, an incident classified as ‘misconduct’ in TOMS appeared from the incident description to involve unwanted sexual contact (‘repeatedly behaved inappropriately towards fellow detainee’) and has therefore been included in the first column. Although assault and bullying are grouped together in this table, three of the incidents of bullying did not involving a physical assault.

69 The number of incidents of threatening and abusive behaviour towards staff looks high. However, it should be noted that during this period there were no actual assaults on staff and that a number of the incidents involving staff started off as other forms of misconduct, but escalated the detainee was corrected.



- 4.31 In summary, around a quarter of incidents involved assaults, bullying or fighting between detainees. Around 20 per cent involved drugs and 16 per cent involved property damage. As such, they could have resulted in detention offence charges being laid. However, only one case was processed in this way. This was a charge of possession of cannabis. The young person pleaded guilty before the Superintendent and was punished with three days' loss of gratuities (a total of \$9.42). No detention offence charges were laid for assaults, fighting, threatening or abusing staff, damage or other misbehaviour.
- 4.32 The table shows that in some 60 per cent of cases, the immediate response was placement in Harding. The legal basis for this was, presumably, management confinement under Juvenile Custodial Rule 210. This permits detainees to be confined from others 'pending an inquiry into the circumstances of an alleged offence or disruptive behaviour and the decision as to how to deal with the behaviour.' The aim is not 'punishment' for alleged misconduct. Unfortunately, because of poor record keeping, it is not possible to be confident that stays of this duration were compliant with the spirit and letter of the legislation and the custodial rules.<sup>70</sup> And there are many reasons to be concerned. A number of detainees complained that they had been held in Harding for many hours and in at least six cases, the available documentation indicated that the young person was held in Harding overnight. In addition, the incident reports examined by the Inspectorate suggested that confinement is being used as a matter of habit following an incident.



*Figure 7: Toilet, water outlet & surveillance camera in a multipurpose cell.*

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70 Issues of documentation and record keeping emerged throughout this review – see also chapter five.

4.33 Generally speaking, the consequences involved for those involved in the incidents were additional work or loss of a privilege such as television, recreation and canteen. In terms of interventions aimed at addressing the behaviour, only 12 per cent of cases resulted in counselling. As we have seen, although no incidents resulted in punitive confinement, many detainees were subject to management confinement. In addition six per cent were subject to regression.

**RESPONDING TO VIOLENCE**

4.34 Given the age, backgrounds and life experiences of most juvenile detainees, it is obvious that the authorities must keep a sharp watch on assaults and bullying. It is also likely, as in any school or other environment, that recorded incidents of bullying will be just the ‘tip of the iceberg’. And some detainees who were interviewed by the inspection team indicated that they thought that a clearer and more robust response was required to some forms of behaviour, including bullying. In order to better understand Banksia Hill’s responses to violent incidents, we examined the responses to incidents of violence (excluding bullying where there was no actual force used) during June and July 2011. Whilst acknowledging that it can sometimes be difficult to distinguish between victims and perpetrators,<sup>71</sup> the following table uses this distinction in order to try and track the responses.

***Violent Incidents and Consequences: June–July 2011***

Incident Roles:	Perpetrators	Victims	Fighters	TOTAL
Numbers	20	21 <sup>72</sup>	12	54
Injuries		11		11
Responses				0
Restrained	4	1	2	7
Confined Harding	15	8	12	35
Consequences				0
Police Referral	1 or 2 <sup>73</sup>			1 or 2
Centre Charge				0
Regression	2			2
Restitution				0
Demotion	6	1		7
LOP Program Place	4	2		7
Work Time	5	1	7	15
LOP Canteen	3	1	2	6
LOP Recreation	3		2	5
LOP TV	5		4	9
Counselled Only	2			2
Mediated	2	2	6	10
<b>Total Consequences</b>	<b>53</b>	<b>16</b>	<b>38</b>	<b>107</b>

71 It may be noted that a number of victims of assault were themselves subject to consequences such as additional work or loss of privileges. This was generally because they had in some way contributed to the incident by provoking or inciting their attacker.

72 During this period, there were three incidents in which a staff member was allegedly assaulted by a detainee, so three of the victims were staff. Occasionally assaults on staff have been quite serious, but these were less serious: one involved struggling during restraint and the other two involved mischief with a staff member, in one case with a punch to the arm, and in the other by tripping.

73 See para 4.37.

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- 4.35 Over a two-month period, there were therefore 20 assaults at the Centre, an average of around one every three days. Of these assaults, 11 led to injuries. There were six fights, or one fight every ten days. In summary, violence is certainly not ‘out of control’ but is also not infrequent. The question is whether the Centre’s responses are sufficiently robust when violence occurs.
- 4.36 The table shows that all the fighters and three quarters of the perpetrators of an assault were confined for a period of time in Harding. As previously noted, the periods and legal justifications for such stays were not always clearly recorded. It is noteworthy, too, that 40 per cent of victims were also confined for a period in Harding. The justification for this may be that it was necessary as an immediate management response to ‘settle both sides down’ and to carry out investigations. But poor documentation makes it impossible to be confident that such placements were always necessary and always of the shortest appropriate duration.
- 4.37 In the community at large, many assaults – particularly those at the lower end of the scale – do not end up being reported to the police or prosecuted in court. In the detention centre context, too, depending on the circumstances and severity, it will be possible to resolve some assaults without a police referral. However, the general principle is that the victim’s wishes should be taken into account in deciding whether to refer a case to the police. Unfortunately, it is not clear that this is actually happening. In only ten of the twenty assault cases was it recorded that the victim had been offered the opportunity to refer the matter to the police. In two cases of assault, the records indicate that the victim requested that the matter be referred to the police but in only one case is it recorded that this actually happened.
- 4.38 Interestingly, there were no detention offence charges. Two of the cases resulted in regression but the perpetrators were generally dealt with by domestic level sanctions such as additional work time or loss of a privilege such as television, canteen spends or recreation. Although detention offence charges are the most serious response to misbehaviour, other than a referral to police for criminal prosecution, they appear to be used only rarely for assaults and more frequently for drug offences, damage and disorderly conduct.<sup>74</sup>

*Recommendation 9*

*Ensure that children are only confined following an incident when this is necessary for the good order or security of the centre, and improve documentation with respect to such confinement.*

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74 See the tables at paras 4.30 and 4.39.

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**DETENTION OFFENCES: USE AND PUNISHMENT**

4.39 The final element in this part of the analysis is to examine the use of detention offence charges for different types of behaviour, and the punishments imposed for such offences. Given that charges for detention offences are rarely laid, we examined data for the whole of the 2010–2011 financial year. The results are summarised in the following table.

*Detention Offences and Outcomes: 1 July 2010 to 30 June 2011*

Offences	Number	Outcomes				
		Added Detention	Loss of Gratuities	Caution or Reprimand	Not Proven	No Result
Unlawful possession or use of drug	32	4	2	15	3	8
Disorderly or riotous behaviour	6	5				1
Damage to centre	4			3		1
Threatening an officer	1	1				
<b>Total</b>	<b>43</b>	<b>10</b>	<b>2</b>	<b>18</b>	<b>3</b>	<b>10</b>

4.40 It can be seen that detention charges are rare, averaging less than one per week. The majority (75 per cent) related to the possession or use of drugs and of the remainder, 23 per cent involved damage or disorderly behaviour. Over the whole period, only one charges related to violence, and this involved threatening an officer. There were no charges for detainee on detainee assaults and, as noted earlier, such incidents rarely result in a police referral.

4.41 Overall, there was a high rate of conviction (91 per cent of cases where the result was known) but around 9 per cent of drug charges were not proven. On the data examined, it was not entirely clear when detention offence charges were laid for drug matters as opposed to other measures being taken.<sup>75</sup>

4.42 In terms of outcomes, it is striking that in none of the cases was confinement ordered by way of punishment. Instead, there was a heavy reliance on additional custody time (around one third of cases where the result was known) and lower level options such as a caution or reprimand.

*Recommendation 10*

*Evaluate whether the responses to incidents at Banksia Hill and the consequences for such behaviour are sufficiently robust, with particular reference to incidents of violence.*

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75 See the table at para 4.30. From 31 May to 17 June 2011, there were 18 drug related incidents at Banksia Hill, of which only one resulted in a detention offence charge.

# Chapter 5

## REGRESSION

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### DEFINITIONS AND LEGAL BASIS

5.1 As shown in chapter four, regression is not an uncommon response to misbehaviour: in fact, it is more common, statistically, than a formal charge of a detention offence. The audit data and analysis presented in this chapter confirm that regression is relatively frequent and that it presents some significant legal, theoretical and practical challenges. Before examining its usage, the first challenge is to define what ‘regression’ means and, given that the term does not feature in either the *Young Offenders Act* or the *Young Offenders Regulations*, to understand its legal basis.

#### Regression in Accommodation Hierarchy

5.2 The term regression is used, rather confusingly, in at least two ways in the juvenile custodial setting. The first is ‘regression in the hierarchy of accommodation’. This practice is first mentioned at the third of the five levels of rules identified earlier, namely, section 1.4 of Juvenile Custodial Rule 209. It is then further explained in section 3.8 of Standing Order 9.

5.3 Regression in the hierarchy of accommodation means, in essence, that the detainee is moved from a privileged living unit to a normal living unit. Used in this way, the term ‘regression’ does not involve developing and implementing a specific regime geared towards managing the particular detainee’s disruptive behaviour. In practice, it means essentially that the detainee will reside in a lower level of accommodation alongside all the other detainees who are housed at that level. The detainee will need once more to earn the privilege of living in higher level accommodation. It is therefore best characterised as a *placement* option rather than an individual *regime* option. Provided appropriate processes are in place, this is a relatively uncontroversial practice, and all good custodial systems utilise ‘hierarchical’ management practices.

#### Individual Regression Regime

5.4 When the term regression is used, it is generally used as shorthand for an ‘individual regression regime’ rather than a reduction in the accommodation hierarchy. Conceptually and in practice, the individual regression regime is very different from regression in the hierarchy of accommodation. As its name suggests, an individual regression regime aims to provide a specific *regime* within which the behaviour of the individual detainee can be addressed and modified. It therefore involves far more than placement in a standard living unit.

5.5 Regression is intended to be the ‘last resort’ to manage challenging, inappropriate and unacceptable behaviour.<sup>76</sup> It is also intended to be different from ‘punishment’. In discussions, management at both the Centre and at Head Office identified regression as an opportunity to engage with the young person in order to assist him or her to develop better coping mechanisms and to learn to behave in more appropriate ways.

5.6 As noted in chapter four, and further developed in this chapter, individual regression regimes are not infrequent. They also involve a very restrictive regime which, in impact, can be at least as intrusive as punitive or administrative confinement, and quite possibly more so. As such, it might be expected that the legal basis for such regimes would be articulated in the primary legal sources of Act or Regulations. However, they are not

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76 See, for example, section 5 of Standing Order 9.

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mentioned in the Act, the Regulations, or even the Juvenile Custodial Rules. The first mention of individual regression regimes occurs in Standing Order 9 (sections 3.9 and 5), which is supplemented by Part Two of Operational Procedure Three.<sup>77</sup>

- 5.7 It might also be expected that the criteria for individual regression regimes would be clear and that they would be unambiguously based on behaviour modification through engagement and assistance rather than punishment. However, section 5 of Standing Order 9 is not entirely clear on this point, stating that regression ‘is a tool that is only utilised to *manage serious incidents* and ongoing poor or inappropriate behaviour’ (emphasis added). The reference to using regression (rather than detention charges, administrative confinement and other options) as a tool to ‘manage serious incidents’ is confusing and serves to blur the boundaries between punishment and regression. Given such ambivalence, it is not surprising that this chapter shows that the boundaries between punishment and regression have become blurred in the eyes of many staff and detainees.
- 5.8 The shift manager has the authority to conditionally regress a detainee, subject to the approval of the Assistant Superintendent. Although part of the aim, initially at least, is segregation from peers, the Standing Orders emphasise the goal of developing a regime that is targeted to the needs of the individual and that is clearly documented, implemented and tracked.

#### WHAT TRIGGERS REGRESSION?

- 5.9 Although it is not necessary or appropriate to refer to individual cases in detail, it is instructive to consider the ‘triggering incidents’ – in other words, the incident which led to the young person being placed on regression. In addition to conducting a general statistical audit of regression, we examined in depth a representative sub-sample of 40 young people. The sample was selected to ensure that there was a sufficient mixture of cases involving short periods of regression and cases involving longer periods of regression. Young people were grouped by the length of time they spent on regression and cases were randomly chosen from these groups.
- 5.10 In the vast majority of cases, regression was triggered by assaulting, threatening or abusing staff (13 cases) or unlawful roof access<sup>78</sup> (ten cases). Three cases involved graffiti, one involved fighting and one involved an assault on a detainee. Some cases involved other forms of concerning misbehaviour and in one or two of the sample cases, it was not entirely clear what had triggered regression. In many of these cases, an outside observer might have expected that detention offence charges would have been laid. In some cases they were laid in addition to regression but in many they were not.
- 5.11 It is of particular concern that in three cases in our sub-sample the documentation indicated that staff saw regression as punishment. In one case, the notes even referred to teaching the young person a lesson. If there are three cases where this was the *recorded perception* of regression, it is very likely that there were more cases where this was in fact the case. An examination of witness reports and discussions with staff lend further weight to this view.

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77 It might be suggested that individual regression regimes are one form of regression in hierarchy and that they are therefore first mentioned in Juvenile Custodial Rule 1.4 (see paras 5.2–5.3). However, the two forms of regression are conceptually very different and need to be identified and recognized as such.

78 Commonly and rather flamboyantly termed a ‘roof assault’.

## REGRESSION

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### REGRESSION STAGES

- 5.12 Standing Order 9 states that regression regimes involve three stages through which detainees can work. In all stages of regression, ‘clear expectations and objectives’ must be given to detainees to allow them to make progress through the stages, and the required steps and daily expectations must be explained.
- 5.13 The broad parameters of the three stages are set out in Operational Procedure 3. Without implying that the system is based on luck, it can essentially be characterised as a ‘snakes and ladders’ scheme. Detainees can be rewarded by progress upwards through appropriate and compliant behaviour but they can also be regressed back to an earlier stage in the event of inadequate progress or poor behaviour. The Operational Procedures provide that regression can commence in any stage but in practice, it most frequently starts at stage one.
- 5.14 In a previous report, this Office criticised the routine operational practice of strip searching all young people who were entering an observation cell for reasons other than urine testing. The Department agreed to review the practice following a recommendation in Report 58.<sup>79</sup> As noted earlier, all detainees subject to punitive confinement must still be strip searched. The situation with respect to regression is less clear. In the sub-sample of 40 regression cases which were examined in detail, there was only one case where a strip search was recorded. However, given the poor documentation in many areas, this may not represent the true figure.

#### Stage One: Confinement, Settling and Assessment

- 5.15 Stage One involves placement in Harding B. The aim is to separate the young person and to allow them to settle and be assessed with a view to other potential interventions. To all intents and purposes, this is a confinement stage. The cells are generally exactly the same ones that are used for punitive or management confinement.<sup>80</sup> The cells have a toilet and a sink and there is usually a vinyl covered mattress in the cell. Other than that, they are sparse. Operational Procedure Three states that detainees are allowed normal bedding but that this can be removed if they are non-compliant. Provided they meet behavioural expectations, detainees may have one phone call to a parent or caregiver daily.
- 5.16 There is no television or radio access in stage one. Unlike detainees in punitive confinement, those in regression also have no entitlement to reading material. However, letter writing material may be made available. Operational Procedure Three refers to the possibility of interaction between detainees if a number of them are under regression at the same time. However, in practice, stage one involves isolation, with the possibility of interaction only in stage two. As noted earlier, detainees in punitive confinement are entitled to half an hour’s exercise every three hours during unlock. Those placed in regression are only entitled to two exercise periods of 30 minutes per day.
- 5.17 Movement out of stage one and into stage two is relatively straightforward and flexible. Under Operational Procedure Three, the Assistant Superintendent can authorise the person’s movement and, if considered necessary, can refer the matter to the Detainee Management Review Committee which meets on Mondays, Wednesdays and Fridays.

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79 OICS, *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 58 (December 2008), Recommendation 3.

80 See the description in para 4.23.

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Stage Two: Intervention

- 5.18 Stage two is where most of the interventions to address misbehaviour should occur. For many years, Harding C wing was used for stage two. More recently, and at the time of the inspection, Harding D wing was the main location for stage two. The cells in D wing have a toilet but no showers.<sup>81</sup>



*Figure 8: The caged entry to Harding C Regression Wing.*

- 5.19 Although detainees have somewhat more access to positive activities, most notably to education once they have completed any allocated work, the environment remains deliberately sparse and, at least in the early part of stage two, is not very different from stage one. Operational Procedure Three provides that there is no television or radio access but that detainees may earn radio privileges or access to newspapers during recreation and meals). Only basic personal items are allowed. Reading materials are allowed in this stage and good behaviour may be rewarded with canteen access once a week. However, exercise entitlements are only the same as for stage one, namely two exercise periods of 30 minutes per day.
- 5.20 Although the environment remains sparse, the avowed purpose of stage two is not punishment but to provide an uncluttered, controlled and low stimulation setting within which staff can actively and positively engage with detainees. Progress is to be matched against both the general expectations of all detainees in regression and against the regime developed for the individual detainee.

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81 Harding D wing was constructed to accommodate male arrestees after Rangeview ceases this function. Its use as a regression wing is therefore temporary.



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- 5.21 The ultimate goal of stage two is to prepare the young person for progression to stage three. Operational Procedure Three does not set out the process for progressing to stage three but it appears that in practice, this is the responsibility of the Detainee Management Review Committee. The make-up of the Detainee Management Review Committee can vary depending on who is available but essentially it is the Assistant Superintendent (as the Superintendent's delegate), the Shift Manager, the Senior Officer Harding Unit, and the psychologist assigned to the young person. It also appears that the Unit Manager from the Unit can contribute to the discussions. Although a psychologist is present, the committee therefore has a strong custodial membership.

#### Stage Three: Moving up to Mainstream

- 5.22 In stage three, the young person is expected to demonstrate their learning in an environment that is less controlled and potentially more challenging. Operational Procedure Three is not very detailed but typically, the young person will engage in an increasing number of programs and recreation along with mainstream detainees. He will sleep in Harding D and, if behaviour improves, he can return to a normal living unit provided he has been reviewed and recommended by the Detainee Management Review Committee.<sup>82</sup>

#### DATA AND DOCUMENTATION ISSUES

- 5.23 Regression is a very serious measure. It is intended to be the 'last resort' for managing misbehaviour and it is intentionally restrictive and intrusive. The various legal instruments also emphasise the importance of documentation, and that regression is intended to be therapeutic not punitive. It is therefore very disappointing to report that we found significant data, documentation and record keeping deficiencies. These included the following:
- In addition to being the starting point for most of the children on regression, Harding B wing is also used for a number of other purposes, such as punitive confinement, management confinement and the observation of 'at risk' children. Unfortunately, the placement documentation generally did not indicate the reasons for placement.
  - It was not always possible to determine the delineation between stages. Recording of this was generally poor prior to 2010 and problems remained even after that.<sup>83</sup>
  - The data examined with respect to placement were primarily taken from the TOMS database. However, it appears that staff enter this information at set times rather than immediately upon movement of the detainee. As a result, the figures provide a general indication, not an exact determination. This is highly problematic, not only in cases of regression but also in cases of confinement where there is a time limit of 24 hours.
  - Although the primary avowed purpose of regression is to is a targeted regime to address poor behaviour, the supporting documentation with respect to regimes was poor throughout the whole period.

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82 Sometimes, detainees who have been on regression are housed temporarily in Harding A wing (which is normally an induction unit for the whole centre) pending placement to a normal living unit. This occurs if the centre is full or if there are concerns about the intended placement.

83 Although the period from 2010 saw somewhat better identification of stages, there were still cases right through till 2011 where it was not possible to tell when or why the young person had progressed or regressed.

## REGRESSION

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- 5.24 It is of particular concern that in a sub-sample of 40 events selected for more detailed analysis, there were only seven cases (17.5 per cent) with comprehensive documentation records. In 16 cases there was some documentation relating to regression but in 17 – or over 40 per cent of cases – there was little or nothing in terms of formal regression records.
- 5.25 It must be emphasised that proper documentation is not an optional extra. It is essential if the Department itself and the Inspectorate are to be satisfied that regression is being used properly and not as a form of punishment, and to allow ongoing review and improvement.

## OVERALL AUDIT FINDINGS

### Use of Regression

- 5.26 In the period from 1 January 2008 to 30 March 2011, the data indicates there were 498 detainee placements into the regression regime. This does not include a number of cases where records indicate a detainee was placed on regression but completed their time in Harding B wing and did not progress to Harding C or D. These cases were excluded from our analysis because, as noted earlier, detainees can be placed in Harding B for a number of reasons and the placement records were not sufficiently detailed to allow us to track them properly. Interestingly we found no examples over this period of detainees being placed in confinement as punishment for a detention offence charge.
- 5.27 As noted earlier, regression is badged as an option of last resort. However, 498 cases of regression over a period of 39 months equates to 12.8 cases per month or one case every 2.4 days. An interesting comparison is that during the 2010–2011 financial year, there were just 43 detention offence charges – around 3.6 per month.

### Time in Regression

#### Harding B

- 5.28 In order to understand the time spent in the various stages of regression, we examined time spent in Harding B separately from the time spent in Harding C or D. We encountered some statistical and documentation issues. For example, some individuals commenced their regression in Harding B and progressed to Harding C, but were then regressed back to stage one in Harding B. After examining the total time spent in Harding B by individuals, we therefore also conducted a secondary analysis of the initiating regressions.
- 5.29 In terms of the total time spent by the 498 detainees covered in the sample, the stays in Harding B ranged from one hour to 14 days. The mean stay was just over two days. In more than half the cases (285 or 57 per cent), the stay was over 24 hours. In 73 cases (15 per cent) the stay exceeded 72 hours, and in 17 cases (3 per cent) it was over seven days.
- 5.30 The analysis of 241 initiating regressions – in other words, the time taken for their initial confinement, settling, and assessment – again found that over 50 per cent of detainees (127 or 52 per cent) were held for longer than 24 hours. Fifty six (22 per cent) were held longer than 48 hours and 21 (10 per cent) longer than 72 hours. Five (two per cent) were held longer than seven days. The mean was just under two days.

### Total Regression Time

- 5.31 Many young people placed onto the regression regime moved backwards and forwards between Harding B and Harding C or D multiple times over the time they spent in regression. Individual periods on Harding C or D ranged from less than one hour to 44 days, with an average of 5.75 days. The average total time a young person spent on regression was a little under two weeks (13 days) with few staying less than three days (1%) or a week (23% staying less than seven days).

## DISCUSSION AND RECOMMENDATIONS

- 5.32 The Department of Corrective Services has already recognised that there are some issues with respect to the regression regime at Banksia Hill and has completed a draft review. The findings of this report amply demonstrate the need for greater clarity in a number of areas for as long as the current regime is in place, and for longer term reform. At the end of this chapter a recommendation is made to this effect.
- 5.33 However, given that the Department is already reviewing regression, and given the immediate urgency of some of the matters discussed in this report, it is also important for Inspectorate to move beyond such a generalised recommendation. The following analysis generates some very specific and concrete recommendations. Most are geared to improving the existing system. They are practical and straightforward, and should be acted upon immediately. They should also assist in longer term reforms.

### Documentation and Record Keeping

- 5.34 One of the most obvious and concerning findings of this report relates to poor documentation. Documentation is essential, first, for duty of care reasons: challenging and generally vulnerable young people who are already in detention are being placed in restricted regime which, at least in stage one and the start of stage two, differs little from confinement by way of punishment. Secondly, it is essential to ensure compliance with the law: the documentation examined in this audit does not satisfy the Inspectorate that there is sufficient compliance with legal requirements relating to regimes or with the boundaries between punishment and regression. Finally, proper documentation on current practices is essential to continuous learning and improvement.

#### *Recommendation 11*

*Ensure clear and comprehensive documentation is maintained with respect to (i) the reasons why children are placed into Harding B wing; and (ii) all stages of any regression regime which is imposed.*

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### Underpinning Principles, Legal Basis and Common (Mis)understandings

It is important to reiterate the basic principles underpinning regression:

- It should provide a framework within which the behaviour of the individual detainee can be addressed and modified.
- It should not be used merely as a sanction or ‘punishment’ for bad behaviour. Punishment processes – where it is simply a matter of punishment – are separately provided for.
- Regression is not a means to provide a short period of ‘time out’ for administrative and management purposes (this should be achieved through Juvenile Custodial Rule 210 and recorded as such).
- Regression is a very intrusive regime, which includes a substantial element of confinement. It is therefore the option of last resort, to be used only when other options are inappropriate or unsuitable. Put another way, regression should target behavioural problems which reach beyond what can be achieved through normal counselling and disciplinary measures.

5.36 We have many reasons to be concerned that these boundaries are blurred, that they are not always understood by staff, and that the principles are sometimes transgressed. The reasons include the following:

- Standing Order 9, the primary legal basis for regression, is ambiguous in suggesting that regression can be used as a ‘tool to manage serious incidents’.<sup>84</sup>
- In practice, the boundaries between confinement and regression appear unclear and the relevant legal instruments are scattered and complex.<sup>85</sup>
- The records completed by staff sometimes treat regression as punishment.<sup>86</sup>
- Regression is generally triggered by incidents which could result in detention offence charges.<sup>87</sup> Whilst it may sometimes be appropriate to use regression in this way, the data suggest that its use in lieu of formal charges may be excessive, and contrary to the original intent of the *Young Offenders Act*.
- The temptation for regression to morph into punishment (intentionally or otherwise) is all the greater because regression, at least in its early stages, is almost indistinguishable from punishment. It is also swifter and involves less onerous procedures.
- In some significant respects (such as the duration of stay and rights to exercise and to reading material) regression is actually more intrusive and restrictive than a punishment regime.
- In many cases, the stay in regression was too short for the development of a ‘regime’ to systematically address poor behaviour. Our concerns on this count were bolstered by the lack of good regime documentation.

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84 See para 5.7.

85 This point is made throughout this chapter and chapter 4.

86 See para 5.11.

87 See chapter 4.

*Recommendation 12*

*As an immediate measure, and prior to the potential development of an alternative to the current model of regression:*

- (1) Improve staff understanding of the proper role of regression as opposed to other options.*
- (2) Amend the legal instruments relating to regression to ensure that (i) that the core principles are embodied in higher level instruments such as Regulations or Juvenile Custodial Rules; and (ii) the language affirms that regression may not be used for the purposes of punishment.*

**Option of Last Resort?**

5.37 Regression is intended to be the option of last resort. However, our figures suggest that it a not-uncommon response. Furthermore, the Superintendent has issued an instruction that regression must be used in cases involving unlawful roof access.<sup>88</sup> It is obviously important for management to take a strong position in such cases because roof access is dangerous and causes major disruption to Centre programs and routines. But it by no means follows that the response should always be placement on regression as opposed to placement in management confinement followed by charges and punishment. It is also of concern that a number of young people appear to have been regressed for simply talking about accessing the roof.

**Time Limits**

- 5.38 It is striking that the legislation and regulations dealing with punitive confinement and management confinement impose strict time limits (48 hours in the case of punishments imposed by a Visiting Justice and 24 hours in the case of decisions by Superintendents). There are no such limitations on regression, even though a similar regime applies, at least in stage one in Harding B.
- 5.39 The audit found that the average stay in Harding B on regression was around two days. The shortest stay was one hour and the longest was 14 days. More than half were held for longer than the 24 hours that would have been permitted in cases of management confinement or of punitive confinement ordered by the Superintendent. More than 20 per cent were held there for over 48 hours.
- 5.40 Given that stage one is intended simply to be a time for confinement, settling and assessment, a time limit should be imposed on such placement. At the very most, this should be 24 hours, in line with the limitations on confinement.

*Recommendation 13*

*Ensure that a young person is never placed in circumstances akin to confinement for more than 24 hours except by way of punishment for a detention offence which has been proved to the satisfaction of an independent adjudicator. Aim for a maximum target of 12 hours for stage one of regression.*

88 B. McMerrin, *Superintendents Notice 5/2011, Roof Access Incidents—Detainee Loss of Privileges*, (25/03/2011). The Notice provides that all detainees involved in unauthorised roof access will be regressed and privileges relating to canteen, gratuities, personal property, social visits and phone calls fully or partly suspended for a 21 day period.

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### An Individualised Regime?

- 5.41 The avowed purpose of regression is to improve behaviour through a *targeted and individualised regime*. Its full and proper title is ‘an individual management regime’, and Operational Procedure 3 states, amongst other things, that regression regimes are to be ‘individually case managed’. However we found that a simple proforma regime was applied in almost every case. This is out of line with the avowed intent and purpose of regression. We have also already commented that impoverished documentation made it very difficult to fully assess compliance.

### Staffing

- 5.42 In many cases, there seemed to be comparatively little engagement by psychologists, Aboriginal Welfare Officers and other support staff. Instead, we found that many staff held the view that the primary purpose of regression was to reassert discipline and firmer boundaries, and that custodial staff took the primary role. However, such arguments have limited relevance to the young people who should end up in regression. If this is the option of last resort, it should be used because the young person has exhibited behaviour that goes beyond what can be achieved by general disciplining and boundaries. As such, a more subtle, more focused and more therapeutic multi-disciplinary approach is required.
- 5.43 The 2010 Report on Rangeview Remand Centre noted that the staff– detainee ratio in Western Australian detention centres of one to eight is much higher than the rest of Australia and that in Queensland and South Australia, the ratio is one to four. It was noted that such ratios lead to particular pressures in specific parts of a facility, such as special purpose units.<sup>89</sup>
- 5.44 Unfortunately, Banksia Hill is also frequently short-staffed even against this ratio. This leads to custodial officers who are attached to the regression units being regularly and routinely cross-deployed to other tasks. This undermines the notion of a planned intervention regime. First, the detainees have been locked into their cells in Harding D for extended periods, sometimes without full exercise entitlements (again blurring the boundaries between regression and confinement).<sup>90</sup> Secondly, in such circumstances, staff cannot give the regression regime and the detainees the individual attention that is intended.

#### *Recommendation 14*

*Ensure that adequate staffing resources – both custodial and other professional staff – are in place to develop, implement and monitor interventions which aim to address individual behavioural needs.*

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<sup>89</sup> OICS, *Report of an Announced Inspection of Rangeview Remand Centre*, Report No. 69 (October 2010), paras 5.1–5.13 and Recommendations 19 and 20.

<sup>87</sup> The evidence for this comes from the comments of detainees, staff and management, the reports of independent visitors to the centre, log records on TOMS and some incident reports.



*Figure 9: The exercise yard in Harding Unit, essentially an outdoor cage.*

#### Longer Term Change

- 5.45 It follows from the analysis contained in this chapter and in chapter four, that a comprehensive review of the management of behaviour is required and that regression cannot be understood or reviewed in isolation from other reforms with respect to issues such as the use of detention offences and of management confinement.
- 5.46 Regression as it stands is a somewhat crude behaviourist model and there is ample scope for a new model. In the Inspectorate's view, a good starting point would be to remove the word regression in this context because it carries inherently negative, quasi-punitive connotations and because the boundaries have become so blurred in the current model. It may also be better to avoid the word 'regime' because this can, again, suggest a negative and punitive dimension to the actions that are taken.<sup>91</sup> More appropriate terms might be 'individual support plans' or 'individual behaviour plans'. It is also important for any such models to be located separately from the Harding unit. However, the real test of any new scheme will be its substance and actual operation, not its label or location.

#### *Recommendation 15*

*Implement comprehensive reforms to the systems and processes for behaviour management in juvenile custodial facilities, especially in the areas of confinement and regression. Develop multi-disciplinary models which pay full regard to the principles in the Young Offenders Act 1994 and which are more subtle, more focused and more therapeutic than current practice.*

91 The Department's unpublished draft review of regression suggests using the term 'individual management regime'.

# Chapter 6

## DETAINEE REHABILITATION AND RESETTLEMENT

### EDUCATION, TRAINING AND WORK

- 6.1 Most young people at Banksia Hill participate in the educational and vocational (Ed/Voc) program provided through Education Services. There is generally one full-time class, but for most, time is divided between a classroom and a specialist program such as metalwork, art/music, woodwork, horticulture or computing. Class time usually includes any learning needed for the linked training program, for example, those in horticulture will undertake some of their theory work in the classroom. Many of the youth have been poor participants in school before coming to Banksia Hill and are sometimes significantly behind in their basic education. Some are from remote communities where English is a second language and many have very low literacy and numeracy levels. Teachers are skilled at assessing detainees and developing individual learning programs based on the TAFE syllabus.
- 6.2 The following table summarises responses from detainees about the education and training at Banksia Hill.

#### *Detainee responses on education and training at Banksia Hill*

	Is valuable	Will help on release	Rather do something else
Education	27 of 30 (90%)	26 of 30 (87%)	12 of 30 (40%)
Training	18 of 25 (72%)	17 of 25 (68%)	9 of 25 (36%)

- 6.3 The 90 per cent positive response rate shown in the table shows that detainees were overwhelmingly satisfied with the progress they were making in their classroom learning and believed it would help them with school or in future employment or training on release. In interviews they told us they felt they were catching up on lost education and in some cases learning to read or write for the very first time. Most were happy with the level of attention they had from their teacher and thought there was a good balance of learning and 'time out'. Some detainees admitted they could work harder in class but were not really pushed. Despite satisfaction with their own progress in class, a third of the detainees interviewed said they would rather be doing something else, generally some form of training or work experience.
- 6.4 Detainees were somewhat less satisfied with the training provided at Banksia Hill. When talking about training, responses indicated that detainees had in mind workshop-based and outdoor activities such as metalwork, woodwork and horticulture, rather than classroom-based programs such as computing or art/music. There was strong appreciation for what they achieved in these areas, such as making useful items for their families in woodwork, gaining welding skills in metalwork or completing a paving course in horticulture. At times in previous years, other short courses such as bricklaying have been provided, but this had become impossible due to the redevelopment project because locations used previously were enclosed within building sites and space generally was limited.



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- 6.5 A number of the older detainees had completed all the available courses at Banksia Hill and said they would like to have access to traineeships, apprenticeships, short courses, certificate courses, work experience or work-ready programs that may assist them to secure employment on release. Some of the areas suggested were bricklaying, plastering, other construction, forklift, mechanics, mining safety and landscaping. Work opportunities at Banksia Hill are quite limited in scope, especially when compared to an adult prison. The main jobs are cleaning, gardening and kitchen work. There is one canteen/laundry position and occasionally there are jobs available doing maintenance work, such as repainting cells and units. There has been limited success in providing linked training with these work positions, although we understand that certificate training was provided over the last 12 months to some of those engaged in renovation work and also some young people employed in the kitchen.
- 6.6 As part of the redevelopment project, additional classrooms are being constructed in the young women and girls precinct for female detainees and behind Harding Unit for young male detainees. Older male detainees, including many on remand will remain in the existing Ed/Voc area with its workshops and specialist classrooms such as the library, computing room and art/music room. It is not yet known what access (if any) female and young male detainees will have to these workshops and specialist classrooms although Education Services had developed a useful discussion paper about utilisation of the three new areas of the Ed/Voc campus, in the young women's precinct, middle school (12–14 year old males) and middle school (males 15+), including desirable outcomes, and issues and strategies to consider.<sup>92</sup>
- 6.7 At the time of the inspection, 58 (50 per cent) of young people in the centre were aged 17 years and very few of them are likely to return to school after release.<sup>93</sup> There were a further 18 detainees in a similar position at Rangeview, totalling 76 across the two centres. There will clearly need to be a stronger focus on the training and work experience needs of older youth when these centres are combined. This has been recognised by Education Services management, but they expressed concern that detainees may have unrealistic expectations about their future work prospects in the light of their criminal histories, substance misuse and inadequate basic education.

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92 Education Services, *New Banksia Hill Site Schools 2011: young women's precinct, middle school site, upper school site*, an internal working paper, DCS, (2011).

93 School attendance is considered compulsory for young people in Western Australia until the end of the school year in which they turn 17 years of age, unless involved in another approved activity such as work or training.



*Figure 10: New workshop and training room in the main school area.*

- 6.8 Only one new workshop with an attached learning area has been constructed as part of the redevelopment. The Office was informed of a plan to use this workshop for detainees aged over 17 years to complete workshop projects started by younger detainees or donation to charity.<sup>94</sup> This seems worthy, but also at odds with the expressed expectations and aspirations of older youth at Banksia Hill and may do little to equip them for employment on their release.

#### ADDICTIONS

- 6.9 Fifty percent of young people interviewed thought there was enough help available in the centre to assist them in overcoming addictions to alcohol and other substances. Detoxification is more often dealt with at Rangeview than Banksia Hill, although one youth claimed he was not helped at all during his withdrawal. Mission Australia provides two addictions programs to detainees each month: Alcohol and Other Drugs, a generic three-hour information and harm minimisation program, and Motivation to Change, a six-hour program for those assessed as having problematic alcohol or drug use.
- 6.10 Thirteen of the young people interviewed reported completing one of these programs during their current stay; some had completed them during a previous stay or were expecting to do one later during their stay. While youth were positive about the content and presentation of these programs, there was concern that they (or others they knew) had little other help with their addiction issues in custody once completing the course. There is nothing like the intensive addictions treatment programs that are available in adult facilities. We were informed that some youth do receive individual counselling to prevent relapse after release,

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<sup>94</sup> Young people on leaving the centre have the option of taking home projects for which they have paid material costs.

although this was not mentioned by youth interviewed about their participation in programs or counselling. Addiction is also an area on which psychologists focus with those detainees undertaking therapeutic counselling in relation to their offending issues.

- 6.11 Addiction and use of substances is one of the most significant challenges for detainees attempting to reintegrate back into the community. Their use of substances has become integral to their offending lifestyle in many ways. While some excellent brief interventions are provided to youth at Banksia Hill, they are significantly less intensive than those provided to adult prisoners. A more intensive and sustained intervention strategy for detainees involved with substance misuse is warranted.

#### PROGRAMS AND COUNSELLING

- 6.12 Detainees interviewed by the inspection team agreed that many programs provided at Banksia Hill (such as HALO, an Aboriginal mentoring program; the drug/alcohol programs; the YMCA Way to Work work-readiness program; the Prepared for Life anger management program; and the sex and relationship courses) were useful and would help them stay out of trouble after release. However, older detainees in particular felt that some programs were too basic and directed more to younger children. The review also found that there were limited options available for those who had returned to the centre more than once.
- 6.13 There was also a view that programs should be linked with follow-up programs in the community. In reality some of these programs do provide linkages with supports available to detainees on release, including HALO which provides mentors to Aboriginal young people, YMCA which continues to engage youth after release through its Bridge program and certain alcohol and other drug service providers which provide relapse prevention support. Detainees' apparent lack of awareness about this should be addressed by those planning their release.
- 6.14 Since the Rangeview inspection in mid-2010, programs managers have made a good effort to make brief interventions available to as many youth as possible, remandees and sentenced detainees alike. This included the aforementioned Alcohol and Drug program and Health In Health Out (an adaption of the HIP HOP program long provided in adult facilities) which provides essential preventative health information about diseases spread through unsafe sex and drug use practices.
- 6.15 Psychologists at Banksia Hill have many roles including the assessment, support and treatment of detainees at risk of self-harm or with other mental health issues. In this respect, seven of the 31 boys interviewed said they would turn to a psychologist first if they needed support. All sentenced youth are also assessed early during their stay in relation to their criminogenic needs. Some with complex needs, such as sex offenders and other violent offenders, are also provided therapeutic counselling in relation to their offending issues by a psychologist.
- 6.16 In many cases, the detainees interviewed were not at all clear about the nature of their involvement with the psychologists. While a number were appreciative of the support they had received, some were less sure that counselling would prepare them for life after release from detention. There was also a view that certain psychologists were better to talk to than others.

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- 6.17 Discussions with centre management revealed that the programs area was facing a number of challenges presently, including the vacancy of both Senior Programs Officer positions and uncertainty how these roles would be shared in future with community youth justice services. Senior Programs Officers are responsible for facilitating a number of core programs, including the Young Offender Personal Development Programs. As a result of the vacant positions a reduced version of only one of these core programs was currently being run.
- 6.18 While a good range of programs for detainees had been selected two years previously through a tender process, only some of these could be implemented due to budgetary limitations. We were informed that there was \$70,000 in the budget for programs across the two centres but that \$7,000 in savings had to be found in 2010–2011. It was also understood that federal funds of \$50,000 per year were available for three years for alcohol and other drug programs, but this in fact had ceased after the first year.<sup>95</sup> The programs area at present therefore, was significantly over-budget. The question of resources for programs is another area that will need some serious attention as the two centres amalgamate.

#### CASE PLANNING

- 6.19 The Case Planning Unit at Banksia Hill is responsible for planning and coordination of assessments and interventions of sentenced young people at Banksia Hill and Rangeview, facilitating communication with youth justice officers in the community and others concerned with their welfare or otherwise involved in release planning. The unit also facilitates official visits, special visits with family, video visits and other communication by detainees with various external service providers, including youth justice officers, legal representatives and supervised bail officers.
- 6.20 Twenty of the 32 youth interviewed were sentenced, and three of these could not remember having been involved with case planning. This was despite case planning processes including completion of a preliminary assessment within two weeks of a detainee being sentenced and involvement of the young person, their family and youth justice officer in occasional case planning meetings throughout their stay.<sup>96</sup> Three of the 12 remandees said they had also had contact with case planning, presumably for an official visit, video visit or to see an Aboriginal Welfare Officer based there. One of these said he was involved with the Department of Community Protection and supported by case planning in his contact with that Department.
- 6.21 The detainees we interviewed seemed to view their contact with case planning positively, except one who said he had been waiting for some days after asking for contact. There was also little sign that young people interviewed had a relationship with their case planning officer except at a practical level, as one young person said: ‘case planning are good but too busy’. As shown earlier, case planning staff, other than the Aboriginal Welfare Officers, were not among those staff that detainees said they would approach first if they needed support.

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95 The reason for this was not known to our informants.

96 It was not confirmed whether or not they had involvement with case planning.

- 6.22 Of course the provision of support is not the primary purpose of case planning, but a close collaborative relationship needs to be developed and maintained between the case officer and each detainee throughout their stay if processes of assessment, planning, facilitation, advocacy and communication are to be effective in leveraging appropriate interventions and services to meet their holistic needs.<sup>97</sup> The fact that the accepted position has been that it is not possible under the 12-hour shift system to assign Youth Custodial Officers as the case manager, mentor or key worker for individual youth places a higher burden on case planning to fulfil this role.
- 6.23 None of this is to suggest deficiency by those currently involved in case planning and clearly young people respect and appreciate the role they play. Nevertheless, our findings put on notice whether the number of staff provided in case planning are sufficient to allow as full a relationship between case planners and individual youth as may be needed to do their role as fully and as effectively as may be appropriate. One might also question whether case planning is best continued as a centralised process, or be more effectively embedded within either the school or unit environments in which the young people spend their time.
- 6.24 It is understood that after all remandees are transferred to Banksia Hill in 2012, case planning will take on many of the responsibilities currently undertaken by the liaison unit at Rangeview.<sup>98</sup> Again resource questions will determine whether remandees are only tracked and processed by case planning (including any liaison functions that may be required), or provided with an enhanced level of assessment and intervention to address their needs in the redeveloped Banksia Hill. These are all issues that the Office will examine at the next full inspection after the amalgamation.

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97 The Office understands that the detainee's Youth Justice Officer in the community is their primary case manager, but that does not detract from the need for holistic case management within the custodial setting.

98 The functions of the Family Liaison Unit at Rangeview are described in OICS, *Report of an Announced Inspection of Rangeview Remand Centre*, Report No. 69 (October 2010), [2.3–5].

# Appendix 1

## THE DEPARTMENT'S RESPONSE TO THE 2011 RECOMMENDATIONS

Recommendation	Acceptance Level/Response
<p>1. <b>Care and Wellbeing</b> Reform the orientation program for young people newly received into detention</p>	<p><b>Supported</b> As part of the redevelopment of Banksia Hill Detention Centre, the Department of Corrective Services will review and improve the orientation process for young people.</p>
<p>2. <b>Human Rights</b> Liberalise the rules relating to gratuities, products available in the canteen, items allowable in detainee cells and what families are able to provide to young people in detention.</p>	<p><b>Supported in Part</b> The Department of Corrective Services will review the Juvenile Custodial Rules and policies relating to gratuities, products available in the canteen, items allowable in cells and what families are allowed to provide to young people. Amendments made to the rules and policies will be reflected in the revised orientation process for the redeveloped Banksia Hill Detention Centre. However, any identified changes will be in keeping with the rules and good order of the centre with an acknowledgement of equity for all detainees.</p>
<p>3. <b>Care and Wellbeing</b> Reduce the number of scheduled and unscheduled lockdowns of detainees.</p>	<p><b>Supported in Principle</b> There is no alternative to the practice of lock downs within existing resources to ensure the safety and security of the centre. However the Department of Corrective Services ensures that all lockdowns are kept to a minimum.</p>
<p>4. <b>Care and Wellbeing</b> Implement strategies and practices with respect to social visits to improve the quality of interaction between young people and their families.</p>	<p><b>Supported in Principle</b> The Department of Corrective Services will continually look to improve practices in relation to social visits for young people with their families, understanding the secure environment and security risks.</p>

THE DEPARTMENT'S RESPONSE TO THE 2011 RECOMMENDATIONS

Recommendation	Acceptance Level/Response
<p>5. <b>Human Rights</b>            The Department pursue legislative amendments to the provisions of the <i>Young Offenders Act 1994</i> to:</p> <ul style="list-style-type: none"> <li>(i) remove the power of Superintendents and Visiting Justices to impose penalties which increase custody time; and</li> <li>(ii) clarify the standard of proof for detention offence charges.</li> </ul>	<p><b>Supported in Principle</b>            At this point in time there is no intention to pursue legislative amendments. The Department of Corrective Services is reviewing the Juvenile Custodial Rules, including those relating to detention centre offence charges.</p>
<p>6. <b>Human Rights</b>            Review the <i>Young Offenders Act 1994</i> and all associated regulations, rules, orders and procedures alongside the pending amendments to the adult prisoner disciplinary regime. The outcomes of the review should include:</p> <ul style="list-style-type: none"> <li>(i) greater clarity with respect to the role of detention offences and other options in managing poor behaviour; and</li> <li>(ii) ensuring that young people in detention are not treated any more severely than if they were adults.</li> </ul>	<p><b>Supported</b>            The Department of Corrective Services is about to commence a targeted review of the <i>Young Offenders Act 1994</i>.</p>
<p>7. <b>Human Rights</b>            Review and report on the Juvenile Custodial Rules and detention centre practices with respect to confinement for a detention offence to ensure full compliance with the expectations of the <i>Young Offenders Act 1994</i> and the <i>Young Offenders Regulations 1995</i> in all areas, including exercise, access to reading materials, monitoring and documentation.</p>	<p><b>Supported – Existing Department Initiative</b>            The Department of Corrective Services is reviewing the Juvenile Custodial Rules, including those relating to detention centre practices for the confinement of young people.</p>

THE DEPARTMENT'S RESPONSE TO THE 2011 RECOMMENDATIONS

Recommendation	Acceptance Level/Response
<p>8. <b>Custody and Security</b> Review the Juvenile Custodial Rules and detention centre practices with respect to confinement for good government, good order or security to ensure full compliance with the expectations of the <i>Young Offenders Act 1994</i> and the <i>Young Offenders Regulations 1995</i> in all areas, including exercise, access to reading materials, monitoring and documentation.</p>	<p><b>Supported – Existing Department Initiative</b> The Department of Corrective Services is reviewing the Juvenile Custodial Rules, including those relating to detention centre practices for the confinement of young people. However, safety, security and welfare requires operational decisions at a point in time.</p>
<p>9. <b>Custody and Security</b> Ensure that children are only confined following an incident when this is necessary for the good order or security of the centre, and improve documentation with respect to such confinement.</p>	<p><b>Supported</b> It is the Department of Corrective Services position that young people are only ever confined when it is necessary for the good order and security of the Centre. The Department will review the current documentation process around the use of confinement and identify areas for improvement.</p>
<p>10. <b>Custody and Security</b> Evaluate whether the responses to incidents at Banksia Hill and the consequences for such behaviour are sufficiently robust, with particular reference to incidents of violence.</p>	<p><b>Not Supported</b> The Department of Corrective Services responds to incidents of misconduct by young people at Banksia Hill Detention Centre in a robust manner. All incidents are dealt with accordingly on a case by case basis.</p>
<p>11. <b>Administration and Accountability</b> Ensure clear and comprehensive documentation is maintained with respect to: (i) the reasons why children are placed into Harding B wing; and (ii) all stages of any regression regime which is imposed.</p>	<p><b>Supported</b> The Department of Corrective Services will review the process for documenting regression of young people as part of the redevelopment of Banksia Hill Detention Centre.</p>



THE DEPARTMENT'S RESPONSE TO THE 2011 RECOMMENDATIONS

Recommendation	Acceptance Level/Response
<p><b>12. Administration and Accountability</b> As an immediate measure, and prior to the potential development of an alternative to the current model of regression:</p> <ul style="list-style-type: none"> <li>(1) Improve staff understanding of the proper role of regression as opposed to other options.</li> <li>(2) Amend the legal instruments relating to regression to ensure that (i) that the core principles are embodied in higher level instruments such as Regulations or Juvenile Custodial Rules; and (ii) the language affirms that regression may not be used for the purposes of punishment.</li> </ul>	<p><b>Supported in Principle</b> The Department of Corrective Services supports the use of the regression regime at Youth Custodial Centres and believes that staff have a full understanding of the intent of regression. It is important to emphasise that regression is used as punishment for misconduct by young people however it also supports the rehabilitation of young people by teaching them the consequences of offending behaviour. However, the Juvenile Custodial Rules relating to the regression regime are currently being revised in line with the redevelopment and staff will receive further training once the revisions are completed.</p>
<p><b>13. Human Rights</b> Ensure that a young person is never placed in circumstances akin to confinement for more than 24 hours except by way of punishment for a detention offence which has been proved to the satisfaction of an independent adjudicator. Aim for a maximum target of 12 hours for stage one of regression.</p>	<p><b>Not Supported</b> Safety, security and welfare are the basis for decision making. The utilisation of confinement and regression is carried out with due caution and consideration of multiple factors.</p>
<p><b>14. Staffing Issues</b> Ensure that adequate staffing resources – both custodial and other professional staff – are in place to develop, implement and monitor interventions which aim to address individual behavioural needs.</p>	<p><b>Supported in Principle</b> The Department of Corrective Services is addressing the level of adequate staffing, in keeping with the Department's perspective, through the Banksia Hill Detention Centre redevelopment.</p>

THE DEPARTMENT'S RESPONSE TO THE 2011 RECOMMENDATIONS

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Recommendation	Acceptance Level/Response
<p>15. <b>Care and Wellbeing</b> Implement comprehensive reforms to the systems and processes for behaviour management in juvenile custodial facilities, especially in the areas of confinement and regression. Develop multi-disciplinary models which pay full regard to the principles in the <i>Young Offenders Act 1994</i> and which are more subtle, more focused and more therapeutic than current practice.</p>	<p><b>Supported – Existing Department Initiative</b> The Department of Corrective Services is reviewing the processes for behaviour management of young people as part of the redevelopment of Banksia Hill Detention Centre. This includes the review of all Juvenile Custodial Rules, specifically the regression regime.</p>

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## Appendix 2

### SCORECARD ASSESSMENT OF THE PROGRESS AGAINST THE 2008 RECOMMENDATIONS

Recommendation No.	Recommendations By Type of Recommendation/Duration Report No. 58, <i>Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre.</i>	Assessment of the Department's Implementations				
		Poor	Less than acceptable	Acceptable	More than acceptable	Excellent
1.	<p><b>Administration and Accountability of DCS</b></p> <p>That the Department identify and fund the current and future funding and resource requirements of Banksia Hill (for recurrent, minor and capital works) to effectively manage the detainee population. This should take into account projections of future population mix and numbers.</p>			•		
2.	<p><b>Staffing Issues</b></p> <p>That the Department deliver and maintain a full staffing complement to Banksia Hill by 31 December 2009.</p>			•		
3.	<p><b>Human Rights</b></p> <p>That the Department change the practice of strip-searching juvenile detainees to cease unnecessary routine strip-searches and ensure search methods are consistent with protecting the human rights and dignity of detainees. A thorough risk analysis and review of other security strategies to support this initiative is also required.</p>			•		
4	<p><b>Care and Wellbeing</b></p> <p>Beyond the formalised written complaints process, that the Department establish a robust and safe way for detainees to have a direct voice in complaints and concerns regarding their management in the juvenile custodial centres. This should include a tracking and feedback mechanism to advise detainees of the progress and outcomes of their complaints.</p>				•	
5.	<p><b>Racism, Aboriginality and Equity</b></p> <p>That the Department develop and implement a service delivery framework that addresses the particular needs of Aboriginal detainees in its juvenile centres.</p>			•		

SCORECARD ASSESSMENT OF THE PROGRESS AGAINST THE  
2008 RECOMMENDATIONS

Recommendation No.	Recommendations By Type of Recommendation/Duration Report No. 58, <i>Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre.</i>	Assessment of the Department's Implementations				
		Poor	Less than acceptable	Acceptable	More than acceptable	Excellent
6.	<b>Care and Wellbeing</b> That the visits facilities at Banksia Hill be upgraded to provide a service more conducive for family and social interaction. <sup>99</sup>	•				
7.	<b>Rehabilitation</b> That the Department ensure increased detainee participation in external activities and programs independent of security classification. <sup>100</sup>	•				
8.	<b>Rehabilitation</b> That the Department improve the coordination and coherence of its throughcare processes across the spectrum of a detainee's involvement with the custodial system (regardless of whether sentenced or on remand). Particular reference is made here to ensuring that case management is adequately supported across all service areas.			•		

99 It is acknowledged that visits facilities will be expanded as part of the redevelopment. This will be evaluated at the next inspection.

100 Youth Custodial Services has undertaken a project to develop a security classification system that may in future support increased participation by detainees in external activities. This will be revisited at the next inspection.

## Appendix 3

### THE INSPECTION TEAM

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Barry Cram	Deputy Inspector
John Acres	Principal Strategy and Research Officer
Kieran Artelaris	Inspections and Research Officer
Cliff Holdom	Inspections and Research Officer
Matt Merefield	Inspections and Research Officer

## Appendix 4

### KEY DATES

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Formal notification of announced inspection	14 February 2011
Start of on-site phase	31 May 2011
Completion of on-site phase	16 June 2011
Inspection exit debrief to staff and management	17 June 2011
Inspection exit debrief to Team of Young Leaders	21 June 2011
Draft Report sent to the Department of Corrective Services	18 November 2011
Response to draft report returned by the Department of Corrective Services	19 December 2011
Meeting with Director, Youth Custodial Services in relation to DCS response	21 December 2011
Amended response to draft report returned by the Department of Corrective Services	16 January 2012
Declaration of Prepared Report	18 January 2012



OFFICE OF THE INSPECTOR  
OF CUSTODIAL SERVICES

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