



**ACT**  
Government

# ACT GOVERNMENT RESPONSE

ACT Human Rights Commission –  
Commission Initiated Review of  
Allegations regarding Bimberi  
Youth Justice Centre Report

Community Services Directorate

June 2019

# BIMBERI OVERVIEW

On 16 April 2019, the **ACT Human Rights Commission** released its *Commission Initiated Review of Allegations regarding Bimberi Youth Justice Centre*. The Report discusses allegations raised about the treatment of young people at Bimberi in the period 2014-2017.

Bimberi Youth Justice Centre provides a safe, secure, supportive, rehabilitative environment for young people in custody and was the first youth custodial facility in Australia to be designed, built and operated under human rights legislation.

The Human Rights Commission interviewed 39 individuals including young people who had been at Bimberi in the review period, family members, youth workers, managers, and health and education staff. It reviewed extensive information obtained from the Community Services Directorate and other stakeholders, conducted physical inspections of the facility, reviewed and analysed data from registers of searches, use of force, segregation and complaints, and viewed CCTV footage and reports of several incidents. Its review was significant and comprehensive.

The Commission's investigations did not reveal an entrenched culture of violence or disregard for the human rights of young people at Bimberi. It also noted the many improvements that have occurred since the Commission's broader review of the ACT Youth Justice System in 2011.

The Review outlines 15 recommendations and I am pleased to provide the Government Response where all recommendations have been 'Agreed' or 'Agreed in Principle'. We will continue to work with young people, Bimberi staff, our key partners in youth justice and oversight agencies as we move forward in undertaking work to respond to the recommendations over the next two years.

Work in response to the recommendations has already commenced. The ACT

Government has announced \$907,00 capital funding over four years in the 2019-20 Budget to strengthen security and CCTV facilities at Bimberi Youth Justice Centre to ensure a safe and secure environment for young people in custody, staff and visitors.

Further, since the commencement of the Review we have seen a significant decline in the number of operational lockdowns and strip searches performed upon induction.

We will provide six-monthly updates on progress against the recommendations to the Human Rights Commission.

The *Blueprint for Youth Justice in the ACT 2012-2022* (the Blueprint) provides the strategic direction for youth justice in the ACT to achieve the ACT Government's priorities for 'more support for families and inclusion', and 'better protection for our children and young people'. The Blueprint's approach focuses on keeping young people out of the youth justice system to create a safer and more inclusive community and prevent a lifetime of offending.

In May 2019, I tabled the *Final Report of the Blueprint for Youth Justice Taskforce* which summarises the considerable success in achieving goals over the past six years of the Blueprint and identifies areas of future focus to achieve better outcomes for children and young people.

The Government's efforts in progressing recommendations from the *Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre* and continuing to progress the areas for future focus under the Blueprint will ensure we continue to have a youth justice system that seeks the best possible outcomes for young people and their families and is one in which the ACT community can be confident.

Rachel Stephen-Smith MLA

Minister for Children, Youth and Families

## Recommendations

Directorate	Recommendation	Response
CSD	<p><b>Recommendation 1:</b></p> <p>That the ACT Government review and upgrade the security camera systems at Bimberi as a matter of priority to ensure comprehensive coverage of the centre and high-quality footage of incidents. The review should ensure the privacy of young people is protected, in particular in sensitive areas such as bathrooms. The utility of body-worn cameras and privacy issues should be considered in this review and staff, young people at Bimberi, and key stakeholders such as METC should be consulted.</p>	<p><b>Agreed</b></p> <p>The ACT Government has committed \$907,000 capital funding over four years in the 2019-20 ACT Budget to strengthen security and CCTV facilities at Bimberi Youth Justice Centre.</p> <p>A review will be undertaken as part of the CCTV camera upgrades to ensure that there is an appropriate balance between the privacy of young people and the safety and security of the Centre.</p> <p>A review of the need and utility of body worn cameras within Bimberi Youth Justice Centre will also be undertaken.</p>
CSD	<p><b>Recommendation 2:</b></p> <p>That the ACT Government employ consultants or staff with professional expertise in positive behaviour support to build capacity at Bimberi to support young people with complex needs and challenging behaviours, and to reduce reliance on restrictive practices such as use of force and segregation.</p>	<p><b>Agreed and Complete</b></p> <p>The ACT Government has extended the role of Principal Practitioner to Bimberi Youth Justice Centre, providing expert clinical guidance on positive behaviour support.</p>
CSD	<p><b>Recommendation 3:</b></p> <p>That the ACT Government introduce an amendment to the CYP Act to ensure consistency with the Use of Force Policy and Procedures by removing the grounds of authorisation for the use of force to achieve compliance with a reasonable direction or to stop a behaviour breach. The Act should be amended to specify that force may only be used where necessary to prevent an imminent risk of a detainee inflicting self-harm, harming another person or seriously damaging property.</p>	<p><b>Agreed in principle</b></p> <p>The Community Services Directorate will reinforce existing policy and procedure (Notifiable Instrument 2018-451) through ongoing training and support for Bimberi staff. The existing policy does not provide authorisation for the use of force to achieve compliance with a reasonable direction or to stop a behaviour breach.</p>

<p><b>CSD</b></p>	<p><b>Recommendation 4:</b></p> <p>That CSD review the Use of Force Practice Guideline and training material provided at Bimberi to ensure that staff are being given clear, consistent and practical guidance on the safest techniques for restraint where the use of force is unavoidable. This training must emphasise the prohibition on prone restraint (which includes any holding of a young person on the ground in a chest down position) and specify alternative approaches to be used by staff to manage violent incidents.</p>	<p><b>Agreed</b></p> <p>The Use of Force Practice Guideline and training material will be reviewed to ensure clear advice regarding the prone position and guidance about restraint practices for when a young person inadvertently enters the chest down position during a Use of Force incident.</p>
<p><b>CSD</b></p>	<p><b>Recommendation 5:</b></p> <p>That Bimberi Management review record keeping arrangements to ensure that a clear and accurate record is kept of the total amount of time each day that a young person has access to exercise and to open air while in segregation. These records should be made available to oversight agencies on request.</p>	<p><b>Agreed</b></p> <p>The ACT Government has invested in the development of the new client information system for Children, Youth and Families (CYRIS) since 2015-16, including funding in the 2019-20 Budget of \$1.791 million over four years to improve better data collection to improve services for children and young people. Once live, the new client information system, CYRIS, will record this information and it will be available to oversight agencies on request.</p>
<p><b>CSD AND EDUCATION</b></p>	<p><b>Recommendation 6:</b></p> <p>That CSD and the Education Directorate ensure that where a young person is in segregation or subject to separation or other management direction, that the young person be provided with face to face educational support, as well as access to appropriate educational materials, each school day.</p>	<p><b>Agreed</b></p> <p>The Murrumbidgee Education and Training Centre (METC) provides face to face and/or educational materials for young people who are unable to attend the METC school setting due to segregation or when they are subject to separation or other Bimberi management direction.</p> <p>METC and Bimberi staff are working to strengthen collaboration and the consistent delivery of education in this area. The Principal, Flexible Education and Director, Bimberi meet fortnightly to review practices that support the quality educational program delivery of METC within the broader operations of Bimberi. This collaborative approach recognises the complex nature of Bimberi operations and supports all young people safely accessing educational support each school day.</p>

**CSD**

**Recommendation 7:**

That the ACT Government introduce amendments to the segregation provisions in the CYP Act to ensure consistency with the HR Act. In particular, s 212 of the CYP Act should be amended to remove the concepts of prudence and good order as grounds for segregation, and the safeguards regarding duration and review of segregation directions should be strengthened. The draft provisions recommended by the Northern Territory Royal Commission provide a useful model for reform, which could be adapted to meet the needs of the ACT.

**Agreed in principle**

The ACT Government will reinforce existing Policy and Procedure (Notifiable Instrument 2018-453) through ongoing training and support to remove ‘good order at a detention place’ as a ground for segregation. The Policy and Procedures will be considered in respect of the duration and review of Segregation Directions, taking into consideration the recommendations of the Northern Territory Royal Commission.

**CSD**

**Recommendation 7a:**

That the notice of a segregation direction given to a young person include information about their right to seek an external review of the direction, and information on how to make that application for external review. That the ACT Government review and update the External Reviewer Appointment instrument issued under the CYP Act.

**Agreed**

Information will be provided to young people subject to a Segregation Direction on how to make an application for an external review.  
  
The External Reviewer Appointment instrument has been updated and provided on the ACT Legislation Register.

**CSD**

**Recommendation 8:**

That CSD review staffing arrangements at Bimberi and develop and fully resource a long-term staffing strategy to ensure adequate staffing to meet the needs of fluctuating numbers of young people at Bimberi. This review should consider how staff can be better supported and should include consultation with staff regarding changes to shift length.

**Agreed**

A Recruitment Strategy is being developed to ensure a regular and ongoing recruitment process and to reduce the impact of staffing fluctuations on the management of the Centre.  
  
A review of shift lengths, including consultation with staff, will be undertaken.

<p><b>CSD</b></p>	<p><b>Recommendation 9:</b></p> <p>That Bimberi management record operational lockdowns, code lockdowns and extended overnight lockdowns in a lockdown register which is subject to oversight by the Official Visitors, Public Advocate and Commissioners within the Human Rights Commission.</p>	<p><b>Agreed</b></p> <p>The ACT Government will provide a lockdown register that will be subject to oversight by the Official Visitors, Public Advocate and Commissioners within the Human Rights Commission, as well as the Inspectorate of Correctional Services.</p>
<p><b>CSD</b></p>	<p><b>Recommendation 9a:</b></p> <p>That CSD review protocols relating to Bimberi practices in response to emergency and operational codes to ensure Bimberi can provide a flexible, scaleable response that does not necessarily require a whole-of-Centre lockdown.</p>	<p><b>Agreed</b></p> <p>The Emergency Response policy and procedures will be reviewed to ensure that decision-making includes consideration of the need for a partial or whole of Centre lockdown in order to provide the necessary response.</p>
<p><b>CSD</b></p>	<p><b>Recommendation 10:</b></p> <p>That CSD amend the Search and Seizure Policy and Procedures to specifically prohibit the use of ‘squat and cough’ procedures during strip searching.</p>	<p><b>Agreed</b></p> <p>The use of ‘squat and cough’ has never been part of the Search and Seizure policy and procedures at Bimberi. As the Report notes, a management direction was issued after the allegations were made to ensure all staff were explicitly made aware that this technique should never be used at Bimberi. An amendment will occur to the Search and Seizure policy and procedures to specifically prohibit the use of the ‘squat and cough’ technique.</p>
<p><b>CSD</b></p>	<p><b>Recommendation 11:</b></p> <p>That Bimberi management ensure that training for staff at Bimberi reinforces the prohibition against the use of ‘squat and cough’ procedures during strip searching; and provide greater guidance and support to staff regarding the record keeping requirements for strip searching, including the need for detailed reasons for each search.</p>	<p><b>Agreed</b></p> <p>Training will be provided consistent with the revised Search and Seizure policy and procedures.</p> <p>The Bimberi Induction form will be revised to include reference to the <i>Criteria for Decision Making</i> in the Search and Seizure Policy and Procedures to increase the recording of detailed reasons for undertaking a strip search.</p>

<p><b>CSD</b></p>	<p><b>Recommendation 12:</b></p> <p>That Bimberi management review the dual use of the Coree Unit for induction and segregation and determine whether another Unit could be used for segregation purposes to reduce inappropriate mixing of young people. If this is not possible, measures should be implemented to reduce the negative impact of the dual use of Coree on vulnerable young inductees.</p>	<p><b>Agreed</b></p> <p>The appropriate placement of young people in Bimberi will continue to be determined based on the number and mix of young people in detention at any given time.</p>
<p><b>CSD AND CHS</b></p>	<p><b>Recommendation 13:</b></p> <p>That CSD and ACT Health review the current practices of administration of medication at Bimberi to ensure young people safely receive their own medication as prescribed, in an environment that is safe and protects each young person’s personal health information.</p>	<p><b>Agreed</b></p> <p>The Canberra Health Service with CSD is currently reviewing the practices of administration of medication at Bimberi. The development of a localised procedure document will be provided to the Bimberi Youth Justice Centre Oversight Agencies meeting for endorsement in the second half of 2019.</p>
<p><b>CSD AND HEALTH</b></p>	<p><b>Recommendation 13a:</b></p> <p>That ACT Health review the drug and alcohol services and programs currently available to young people at Bimberi and consider how more pro-active support could be provided to young people while in detention to assist with rehabilitation from drug and alcohol dependence. Consideration be given by the ACT Government to increasing the youth drug &amp; alcohol counselling resources available from ACT Health to increase availability of drug and alcohol services in Bimberi.</p>	<p><b>Agreed in Principle</b></p> <p>ACT Health and CSD will examine the need and type of services required to enhance the provision of ongoing alcohol and other drug education for clients of Bimberi Youth Justice Centre.</p>
<p><b>CSD</b></p>	<p><b>Recommendation 13b:</b></p> <p>That CSD review the availability and range of rehabilitation services and programs at Bimberi, and consider what programs could be made available to young people in the evening.</p>	<p><b>Agreed</b></p> <p>A review of the services and programs made available to young people during afternoons and evenings in Bimberi will be undertaken.</p>

<p><b>CSD</b></p>	<p><b>Recommendation 14:</b></p> <p>That the ACT Government consider the reopening of the Bendora Transition Unit or that it implement a systematic program of throughcare at Bimberi similar to that previously offered through the Bendora unit. CSD should consult with young people, the METC, and key stakeholders including members of the Bimberi oversight group, in developing such a program.</p>	<p><b>Agreed</b></p> <p>A Throughcare Model for young people in Bimberi will be developed in consultation with young people, the METC, and key stakeholders including the members of the Bimberi oversight group.</p>
<p><b>CSD</b></p>	<p><b>Recommendation 15:</b></p> <p>That the ACT Government consider developing a flexible therapeutic protection place or other suitable therapeutic placements in the community to better meet the needs of children and young people aged under 14 who engage in harmful conduct and come into contact with the youth justice system.</p>	<p><b>Agreed</b></p> <p>The Community Services Directorate will work with the ACT Human Rights Commission to review the therapeutic protection provisions in the <i>Children and Young People Act 2008</i> to develop options that align with best practice and contemporary knowledge in relation to therapeutic placements.</p>



**ACT**  
Government

Community Services Directorate

June 2019