



**ACT GOVERNMENT RESPONSE**

**TO THE RECOMMENDATIONS OF THE  
REPORT OF THE**

**HUMAN RIGHTS AUDIT OF THE  
QUAMBY YOUTH DETENTION  
CENTRE**

**Authorised by  
Ms Katy Gallagher MLA  
Minister for Children, Youth and Family Support**

**August 2005**

## Introduction

The Human Rights Act 2004 (the Act) came into force on 1 July 2004.

In early April 2005, the Executive Director of the Office for Children, Youth and Family Support (the Office) met with Dr Helen Watchirs, Human Rights Commissioner and agreed to an audit of the Quamby Youth Detention Centre and its compliance to the Act. This audit was undertaken to inform the Office in its review of the operational legislative and policy framework currently in place and to assist the process in ensuring that the new youth detention facility will operate in accordance with human rights standards.

The Terms of Reference for the Audit were:

“The ACT Human Rights Commissioner is to review the effect of existing Territory law governing the operations of Quamby Youth Detention Centre (‘Quamby’). The audit is to focus on key areas of activity and assess the law, policy and practices of the institution against the benchmark of international human rights norms enshrined in the *Human Rights Act 2004* and relevant international standards.

The purpose of the audit is to provide information and analysis to inform the Government’s review of the operational legislative and policy framework currently in place, and to assist the process in ensuring that the new youth detention facility will operate in accordance with human rights standards.

The audit will examine the current legal framework and operational practices in relation to high priority areas that engage fundamental rights:

- Humane treatment;
- Segregation;
- Privacy; and
- Information and communication.

The audit methodology will include a review of relevant legislative provisions and Quamby’s Policy and Proceedings Manual and the Standing Orders. Consultation will be by interviews with a cross-section of the detainees, staff and management. Other stakeholders, including statutory office holders, non-government organisations, advocates, professionals and service providers will also be consulted where possible.

The audit is to take place during May-June 2005."

The Audit commenced in early May 2005 and a report was provided to the Attorney General on 1 July 2005.

The report contains a total of 52 recommendations. The key issues that have been raised in the recommendations relate to the classification and placement of residents; the Behavioural Management System; Searches - from personal (strip) and cell search to searches of correspondence; to issues around food, recreation and clothing.

The Government has agreed with 25 of the recommendations and agreed in principle with the remaining 27 recommendations. Where the Government has agreed in principle, for the most part these issues will be addressed through review processes that are currently underway.

These reviews include a revision and update of the current Standing Orders for the Quamby Youth Detention Centre, which will be completed by the end of September 2005. As part of this there will be a review of the policies and procedures manual for Quamby. This work will address issues raised in 30 of the recommendations.

Four recommendations have been implemented in full to date.

A further 9 recommendations will be given active consideration by the Department during the design and development phase of the New Youth Detention Centre.

<b>HUMAN RIGHTS AUDIT REPORT</b>	<b>GOVERNMENT RESPONSE</b>
<b>1. Classification and Placement</b>	
<p><b>Recommendation 1.1:</b> <i>There should be a separate accommodation unit for new inductees</i></p>	<p><b>Agreed</b> The Government has previously recognised the need for an expansion of accommodation options at the Centre for new inductees. A demountable providing for two separate units has been purchased from QLD and is expected to be operational by December '05. The additional demountable will provide increased capacity and flexibility in relation to the classification and placement of residents.</p> <p>Further separation issues will not be addressed until the completion of the New Youth Detention Centre.</p>
<p><b>Recommendation 1.2:</b> <i>There should be separate sleeping arrangements for female detainees. The special needs of female detainees should be recognized and staff should ensure there is a sufficient range of services despite relatively small numbers</i></p>	<p><b>Agreed</b> As above.</p> <p>Work is currently underway to review all the services and programs provided within the Centre, including living skills and therapeutic services.</p>
<p><b>Recommendation 1.3:</b> <i>There should be appropriate separation of detainees on the basis of age group and status (remand or under sentence).</i></p>	<p><b>Agreed in principle</b> This ACT Government accepts this in principle.</p> <p>Within the limitations of the current facility, the Department will undertake to ensure the placement and segregation of residents according to status and sex.</p> <p>The issues around the classification and placement of residents will be incorporated into the design parameters for the planning and development of the New Youth Detention Centre.</p>
<b>2. The Behaviour Management System</b>	

<p><b>Recommendation 2.1:</b>  <i>The behaviour management system should be comprehensively reviewed and given a specific legislative basis to ensure clarity and consistency in implementation.</i></p>	<p><b>Agreed</b>  Janet Rickwood, formerly the Official Visitor for Quamby, has been engaged to undertake a comprehensive review of the Behavioural Management System. Additional experts will also be consulted during this review.</p> <p>It is expected that this review will be completed by October '05.</p> <p>A review is being undertaken of the current Standing Orders, to be completed by September '05.</p>
<p><b>Recommendation 2.2</b>  <i>Segregation as a disciplinary measure should be used as a last resort and for the shortest time possible, with intensive work by staff to facilitate the detainee's return to the full range of association and activities as soon as possible.</i></p>	<p><b>Agreed</b>  The ACT Government supports this principle.</p> <p>The review of the Behavioural Management System will guide the use of segregation within the Centre. The recently notified Standing Order on the use of the seclusion room has highlighted these principles.</p> <p>A resident may be placed in the seclusion room to maintain the good order of the Centre in circumstances where there is a persistent disruption, threats of violence or actual violence against self, other residents or staff.</p> <p>All use of the seclusion room is as a last resort and occurs using appropriate behaviour management policies and procedures.</p>
<p><b>Recommendation 2.3</b>  <i>The seclusion cell should not be used until appropriate policies and procedures are in place</i></p>	<p><b>Agreed</b>  There is a recently notified Standing Order on the use of the seclusion room. The Standing Order outlines revised policies and procedures.</p> <p>All policies will be revised as part of an overall review of Standing Orders. This will be completed by September '05.</p>

<p><b>Recommendation 2.4</b>  <i>Policies and procedures regarding the use of the seclusion cell should include, in addition to the video camera, log book and regular 5 minute observations:</i></p> <ul style="list-style-type: none"> <li><i>a) Guidance to staff on a structured decision-making process as to when a detainee could be placed in the cell - it must not be more extreme than necessary to achieve reasonable disciplinary objectives, or protection of detainees and/or staff;</i></li> <li><i>b) That all staff are trained in de-escalation techniques;</i></li> <li><i>c) That fresh air is circulated into or within the cell;</i></li> <li><i>d) Other detainees cannot observe its use;</i></li> <li><i>e) The door can be opened quickly;</i></li> <li><i>f) That the nurse, doctor or psychologist are on call to assist and examine at a minimum every hour in order to ensure the detainee is fit to sustain this punishment;</i></li> <li><i>g) The Office of the Community Advocate is notified of the use of the cell to allow independent oversight after use for more than an hour and;</i></li> <li><i>h) A cap of two hours is placed on the maximum time in a day that a detainee can be placed in the seclusion cell.</i></li> </ul>	<p><b>Agreed in principle</b>  The Government agrees in principle with these recommendations and will implement, dependent on outcomes of reviews and discussions with external agencies.</p> <p>Several issues raised in this Recommendation have been addressed. These include: ensuring a structured decision making process is in place prior to the use of the seclusion room; training previously provided to staff is to be provided to new staff during August '05 with the Australian Federal Police on de-escalation techniques; fresh air is circulated in the seclusion room; electronic and emergency key entry is available for the seclusion room to ensure the door can be opened quickly; and other residents are unable to observe the use of the room.</p> <p>Discussions will commence with ACT Health in relation to the provision of health services, including after hour services.</p> <p>Discussions are occurring with the Office of the Community Advocate to determine their role in providing an independent oversight of the use of the seclusion room.</p>
<p><b>Recommendation 2.5</b>  <i>Decisions concerning remissions should be dealt with by an independent body. The behaviour management system should be completely separated from loss of remissions</i></p>	<p><b>Agreed</b>  The Government agrees with this Recommendation.</p> <p>The Department has commenced discussions with the Department of Justice and Community Safety in relation to remissions being dealt with independently by the Sentence Administration Board. This will require</p>

	amendments to the Sentencing Administration Bill and the Children and Young People's Act.
<p><b>Recommendation 2.6</b>  <i>There should be a review of the current complaint system, and a clearer and separate process for dealing with disciplinary matters that ensure the right to be heard before a sanction is applied and a right of appeal, with representation of a detainee by the Office of the Community Advocate in any disciplinary procedure.</i></p>	<p><b>Agreed in principle</b>  All young people have direct and immediate access to the Office of the Community Advocate, the Official Visitor and the Ombudsman's Office when required.</p> <p>Further discussions with the Office of the Community Advocate are occurring regarding their role in the complaint process.</p> <p>Revised policies and procedures will include information about the complaints process for the Centre and the broader Department.</p>
<p><b>3. Personal (strip) and Cell Searches</b></p>	
<p><b>Recommendation 3.1</b>  <i>Strip-searches should only be conducted when there is reasonable suspicion that the detainee may have in their possession a thing that may cause serious damage or threaten the detainee or another person's life.</i></p>	<p><b>Agreed in principle</b>  This Recommendation is agreed with in principle. Quamby will undertake to minimise the use of strip searches. Currently strip searches are only conducted by staff members of the same gender. The issue of strip searches will be included in the review of Standing Orders that will occur over the next 3 months.</p> <p>Consideration will be given to what other jurisdictions do with regards to personal searches, including the use of electronic screening and the use of sniffer dogs.</p>
<p><b>Recommendation 3.2</b>  <i>There should be an explicit requirement to take into account the characteristics of the individual concerned to prevent violations of the physical and mental integrity of the detainee</i></p>	<p><b>Agreed in principle</b>  As above</p>
<p><b>Recommendation 3.3</b></p>	<p><b>Agreed in principle</b></p>

<p><i>There should be a clear policy regarding the searching of detainees' cells. If contraband is found, it should be a matter of structured discretion whether other detainees are strip-searched, on the basis of the type of contraband found and reasonable suspicion that the other detainee(s) may also have contraband. Only female staff should search female detainee cells</i></p>	<p>As above. A clear policy will be developed regarding the searching of resident's cells along with the review of Standing Orders.</p> <p>The current practice within Quamby is for strip searches to only be initiated when there is reasonable suspicion that a young person is concealing an object of contraband. These strip searches are conducted by staff members of the same gender.</p>
<p><b>4. Searches of Correspondence</b></p>	
<p><b>Recommendation 4.1</b> <i>A clear policy should be developed on the searching of correspondence. It should be clear what content is inappropriate to justify a letter not being forwarded to a detainee.</i></p>	<p><b>Agreed in principle</b> This Recommendation is agreed with in principle. The issue of searching, forwarding and reading correspondence will be undertaken in the current review process of policies and procedures that will occur over the next 3 months.</p>
<p><b>Recommendation 4.2</b> <i>There should be a consistent practice of forwarding letters to detainees even if sections with inappropriate content are deleted, unless the letter is offensive in its entirety</i></p>	<p><b>Agreed in principle</b> As above</p>
<p><b>Recommendation 4.3</b> <i>Legal correspondence should not be opened and searched unless there is a reasonable cause for suspicion that legal privilege is being abused. If correspondence is opened to remove paper clips or staples, the contents should not be read by staff.</i></p>	<p><b>Agreed in principle</b> As above</p> <p>Legal representatives will be asked to ensure that staples and clips are not included with their correspondence.</p>
<p><b>Recommendation 4.4</b> <i>Detainees should be encouraged to choose the staff member they feel most comfortable with to explain the contents of legal or other correspondence</i></p>	<p><b>Agreed in principle</b> As above.</p> <p>This is already an available option for children and young people in the Centre, subject to the staff members availability. This will be outlined in the revised Handbook.</p>

<p><b>Recommendation 4.5</b>  <i>Lawyers' property, including their briefcases, should not be requested to be submitted for a search upon entry, except if there is reasonable suspicion that they are concealing contraband or non-legal information that could threaten the safety and security of Quamby.</i></p>	<p><b>Agreed in principle</b>  As above</p> <p>This recommendation mirrors current procedures in the Centre.</p>
<p><b>Recommendation 4.6</b>  <i>The policy should require that staff are not to read any legal or welfare material in detainees' cells when they are conducting cell searches, if the detainee is absent and if there is no reasonable suspicion of inappropriate content.</i></p>	<p><b>Agreed in principle</b>  As above</p>
<p><b>5. Video Surveillance</b></p>	
<p><b>Recommendation 5.1</b>  <i>Ensure, to the extent possible, that there is a mixed gender of staff in the control room when female detainees are being monitored by video cameras.</i></p>	<p><b>Agreed in principle</b>  The Department will seek to employ the appropriate numbers of male and female staff and ensure wherever possible mixed gender staff in rostering practices. There is currently a full-time female control room team leader during the day shift that is available to assist with monitoring.</p>
<p><b>6. Food</b></p>	
<p><b>Recommendation 6.1</b>  <i>Employment of a chef should be fast-tracked. In the meantime, variety in the food provided should be improved, especially lunch.</i></p>	<p><b>Agreed</b>  Advertisements to fill the positions (2) of cooks in the Centre occurred during July '05.</p>
<p><b>Recommendation 6.2</b>  <i>A program for the older detainees to cook on the weekend should be re-instated with adequate supervision</i></p>	<p><b>Agreed</b>  Once the cooks' positions have been filled and policies and procedures around safety and OH&amp;S have been completed this program will be re-instated.</p>
<p><b>7. Recreation</b></p>	

<p><b>Recommendation 7.1</b>  <i>There should be independent monitoring of the periods of lockdown, especially on the weekends.</i></p>	<p><b>Agreed in principle</b>  The lockdown periods on the weekend are the same as during the working week. Lockdowns occur to allow de-briefing and briefing of staff. On Thursdays lockdowns enables external visits to medical and other professionals and training for staff to occur.</p> <p>Discussions will be held with the Office of the Community Advocate about the potential for independent monitoring of lockdown periods.</p>
<p><b>Recommendation 7.2</b>  <i>An indoor multi-purpose recreation facility should be established as soon as possible, or alternatively access should be allowed to an outside facility after 5.30pm.</i></p>	<p><b>Agreed in principle</b>  The New Youth Detention Centre will have provisions for an indoor recreation facility.</p> <p>There is currently a limited indoor recreation facility, which includes weight training equipment and some cardio equipment.</p>
<p><b>Recommendation 7.3</b>  <i>All youth workers should be encouraged to create different activities for detainees, and detainees should be facilitated to develop new activities they are interested in.</i></p>	<p><b>Agreed</b>  Youth workers will be further encouraged to offer a range of different activities to residents based on their diverse skills and interests. There is currently a staff register listing areas of expertise where staff can assist with the delivery of programs during school holidays.</p> <p>Future recruitment of youth workers will focus on developing a broad skills base to ensure a range of activities can be offered to young people.</p>
<p><b>Recommendation 7.4</b>  <i>Detainees held in the 6-bed unit must receive adequate access to recreational activities. The cage should be dismantled and any alternative security measure that is established should ensure there is more room for activities</i></p>	<p><b>Agreed in principle</b>  The Department has begun discussions around dismantling the cage and building a private courtyard to address this recommendation in the short term. Alternatives to providing access to recreational space around the 6 bed unit are being examined.</p>
<p><b>Recommendation 7.5</b></p>	<p><b>Agreed</b></p>

<i>Female detainees must receive the equivalent access to activities and trainings as males, for example cardio equipment could be installed in the gymnasium.</i>	A range of cardio equipment has been hired and is now available for use by female residents.
<b>8. Clothing</b>	
<b>Recommendation 8.1</b> <i>There should be consideration given to changing the colour of the issued clothing (having the top or pants a different colour).</i>	<b>Agreed in principle</b> The issue of residents clothing options, including the purchase of new clothing, will be included in the review of policies and procedures. Issues around safety, security and the protection of residents must be considered.
<b>Recommendation 8.2</b> <i>Whenever a detainee is leaving Quamby s/he must be wearing their own clothing</i>	<b>Agreed in principle</b> As above
<b>Recommendation 8.3</b> <i>Detainees should be given the option before leaving Quamby, for whatever reason, to go shopping for new clothes (especially if their clothes no longer fit). If there are security concerns, such as high risk of escape, then the family of the detainee should be contacted to organise appropriate clothing.</i>	<b>Agreed in principle</b> As above  This is the current practice within the Centre and will continue to be reflected in transitional arrangements.
<b>Recommendation 8.4</b> <i>Quamby should allow, at regular intervals, some personal items of clothing to be worn, especially for detainees on remand.</i>	<b>Agreed in principle</b> As above
<b>9. Visits and Telephone Access</b>	
<b>Recommendation 9.1</b> <i>There needs to be flexibility and transparency in considering requests by detainees to approve visits and telephone contacts with friends, and other members of their community.</i>	<b>Agreed</b> The issue of visits and telephone access will be included in the review of Standing Orders that will occur over the next 3 months.  There is currently a process in place for considering requests by residents to visits and telephone contact. This also

	includes the need to obtain consent from resident's parents/guardian.
<p><b>Recommendation 9.2</b>  <i>Ex-detainees, especially if they are family members, should not be automatically excluded from having supervised visits</i></p>	<p><b>Agreed</b>  This issue will be included in the review of policies and procedures that will occur over the next 3 months. The current practice is determined on a case-by-case basis.</p>
<p><b>Recommendation 9.3</b>  <i>Lists of approved visitors and telephone numbers in the control room should be up to date for each detainee</i></p>	<p><b>Agreed</b>  This is the current practice and has been recently updated.</p>
<p><b>Recommendation 9.4</b>  <i>A telephone system should be installed that would allow detainees longer and more outgoing calls on their designated days.</i></p>	<p><b>Agreed</b>  The Department has begun consideration of the application of the ACT Corrective Services telephone system to Quamby and the New Youth Detention Centre.</p>
<p><b>Recommendation 9.5</b>  <i>Improvements should be made for protecting privacy when detainees are making or receiving telephone calls.</i></p>	<p><b>Agreed in principle</b>  The Department has begun exploring additional privacy measures, costs and safety issues.</p> <p>This issue will be addressed in the new Youth Detention Centre.</p>
<p><b>Recommendation 9.6</b>  <i>Protections need to be provided when detainees are making or receiving welfare or legal telephone calls.</i></p>	<p><b>Agreed in principle</b>  As above.</p>
<b>10. Maintaining Family Relations</b>	
<p><b>Recommendation 10.1</b>  <i>Primary caregivers should be allowed, whether on remand or sentenced, to maintain care and contact with their children up to pre-school age, where that is assessed as being in the child's best interests, and to make available parent</i></p>	<p><b>Agreed in principle</b>  This recommendation is under consideration following the recommendations of the ACT Legislative Assembly Standing Committee on Community Services and Social Equity Report 6. Initial research has commenced to inform the development</p>

<p><i>education programs for both expectant mothers and other parents in Quamby.</i></p>	<p>of an appropriate policy.</p> <p>This recommendation will be further considered during the design and development of the New Youth Detention Facility.</p>
<p><b>11. Record Keeping</b></p>	
<p><b>Recommendation 11.1</b>  <i>The file management process and procedures should be reviewed to ensure that information is comprehensive and up-to-date for all detainees and can be accessed easily and quickly when required. An electronic database should be established for this purpose</i></p>	<p><b>Agreed in principle</b>  The Department is committed to the overall improvement of file management processes and compliance with the ACT Territory Records Act 2004.</p> <p>A project team is currently working on addressing this issue across the Department, which includes the development of specific policies and procedures. As part of this project an officer has been located within the Centre to maintain and update residents records.</p> <p>Currently there are temporary employment arrangements in place until December '05 while ongoing work is undertaken to secure permanent funding for any identified ongoing positions.</p>
<p><b>12. Right to Information</b></p>	
<p><b>Recommendation 12.1</b>  <i>The detainees' handbook must be updated as a priority</i></p>	<p><b>Agreed</b>  This detainees' handbook will be updated as part of the review of policies and procedures that will occur over the next 3 months.</p>
<p><b>Recommendation 12.2</b>  <i>Detainees must be informed of their rights and obligations, as well as the operating rules</i></p>	<p><b>Agreed</b>  This is current practice. This will be included in the review of policies and procedures that will occur over the next 3 months.</p>
<p><b>Recommendation 12.3</b>  <i>Staff must be given a copy of relevant international rules and standards regarding the protection of juveniles in detention.</i></p>	<p><b>Agreed</b>  This information is currently being prepared for staff and will be distributed when completed.</p>

<b>13. Access to Lawyers</b>	
<p><b>Recommendation 13.1</b>  <i>The South East Aboriginal Legal Service should be advised on entry to Quamby when detainees identify as ATSI and consent to notification.</i></p>	<p><b>Agreed</b>  Discussions are to take place between the Aboriginal and Torres Strait Islander Unit and the South East Aboriginal Service following the commencement of the new ATSI Director.</p>
<b>14. Access to Media</b>	
<p><b>Recommendation 14.1</b>  <i>Detainees should have controlled access to the media with appropriate safeguards in place.</i></p>	<p><b>Agreed in principle</b>  Privacy and confidentiality considerations need to be paramount for this group of children and young people. Safety issues to be considered during the review of Standing Orders to be completed by the end of September '05.</p>
<b>15. Communication with the Outside World</b>	
<p><b>Recommendation 15.1</b>  <i>Management should oversight videos and DVDs brought into Quamby to ensure appropriate content and classification.</i></p>	<p><b>Agreed</b>  This is current practice.</p>
<p><b>Recommendation 15.2</b>  <i>Weekend newspapers should be delivered and made available to detainees</i></p>	<p><b>Agreed</b>  The Canberra Times is delivered to the Centre each day and made available to residents.</p>
<p><b>Recommendation 15.3</b>  <i>Email accounts for detainees should be set up for external use with appropriate monitoring to ensure emails are only sent to approved contacts before being sent in bulk.</i></p>	<p><b>Agreed in principle</b>  At the beginning of July '05 the Department of Education and Training upgraded the computer facilities at the Hindmarsh Education Centre. The exploration of the use of email accounts for residents for external use will be explored further to take into consideration all issues including the security of the Centre, safety of people at the Centre and inappropriate use.</p>
<b>16. Complaints Process</b>	
<b>Recommendation 16.1</b>	<b>Agreed</b>

<p><i>The complaint forms should be numbered to ensure appropriate tracking.</i></p>	<p>The issue of complaints and the processes used will be included in the review of policies and procedures.</p>
<p><b>Recommendation 16.2</b>  <i>The complaint form should separate general and serious issues regarding detainees' treatment, consequences and loss of remissions. In the latter case, the form should go directly to the Operations Manager.</i></p>	<p><b>Agreed</b>  As above</p>
<p><b>Recommendation 16.3</b>  <i>Detainees should be consulted and informed throughout the process of dealing with their complaint. If there are several complaints on the same issue, all detainees should be informed at regular intervals about the progress of their complaint</i></p>	<p><b>Agreed</b>  This is currently undertaken but will be clearly outlined in the revised policies and procedures and the new handbook.</p>
<p><b>Recommendation 16.4</b>  <i>Complaints regarding the loss of remissions should be addressed by an independent body</i></p>	<p><b>Agreed in principle</b>  As outlined against Recommendation 2.5 discussions have commenced with the Department of Justice and Community Safety in relation to an independent body administering remissions.</p> <p>The management of complaints will be reviewed during this process.</p>
<p><b>Additional Recommendations:  Staffing Issues at Quamby</b></p>	
<p><b>Recommendation</b>  <i>High quality and skilled staff, ensuring gender parity, need to be recruited, paid commensurately and retained. Appropriate induction and ongoing training and development must be provided.</i></p>	<p><b>Agreed</b>  The Department is committed to having highly qualified and skilled staff providing services to the community, including residents of the Centre.</p> <p>Work has commenced with the Human Resources area to develop a strategy to attract high quality applicants to vacant positions and to address retention issues.</p> <p>The training of recruits and staff is an ongoing priority of the Office to ensure high quality and skilled staff.</p>

<p><b>Additional Recommendations: Legal and Policy Framework for Quamby</b></p>	
<p><b>Recommendation</b> <i>A comprehensive set of disallowable Rules governing the operation of Quamby should be made under the Children and Young People Act 1999 that are compatible with the HR Act. This is required as a matter of urgency.</i></p>	<p><b>Agreed</b> All Quamby's Standing Orders (2000) were declared retrospectively as disallowable instruments on the ACT legislation register on 28 July 2005 following the amendments to the <i>Children and Young People Act 1999</i> on 1 July 2005.</p> <p>All Standing Orders will be reviewed and revised by September 2005. As part of this process there will be a review of the policies and procedures for Quamby. Upon completion of these reviews, there will be a comprehensive set of policies, procedures and instructions governing the operation of Quamby. These will be compatible with the <i>Human Rights Act 2004</i>.</p>