

MEDIA RELEASE – FOR IMMEDIATE RELEASE

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Investigation criticises the treatment of two young people in the Adelaide Youth Training Centre (Kurlana Tapa)

An investigation undertaken by the Ombudsman has identified that the agency formerly known as the Department for Communities and Social Inclusion, now the Department of Human Services, erred in its treatment of two young people in the Adelaide Youth Training Centre by subjecting them to inhumane treatment, including extended periods of isolation and solitary confinement.

In 2017, the Ombudsman received two complaints concerning the treatment of young people in the Adelaide Youth Training Centre. The young people, given the pseudonyms 'Ben and 'Ryan' by the Ombudsman, made similar allegations, including that they had been isolated in their cells for unreasonable periods of time, without being advised when their punishments would end, and that it caused them psychological harm.

The Ombudsman investigated the periods of time Ben and Ryan were segregated and secured in isolation and considered whether:

- they were lawfully segregated
- they were provided with sufficient access to exercise and other stimulation
- they were provided with sufficient education
- they were provided with reasonable opportunities to have contact with their family
- the department kept sufficient records in relation to their treatment
- the use of mechanical restraints was reasonable, and
- Ryan, as an Aboriginal young person was provided sufficient cultural recognition and support.

There was a considerable delay in the investigation as it took the department almost twelve months to provide information which could enable the Ombudsman to investigate the issues. It became apparent to the Ombudsman that the department was unable to easily determine from its records whether the two young people were treated in accordance with the legislative requirements and human rights standards.

The Ombudsman's investigation established that:

- Ben was confined to his cell for more than 22 hours per day, constituting solitary confinement, on 25 days during a period of approximately four months
- there were 6 days on which it was not possible from the records to determine how long Ben was confined to his cell
- on one occasion Ben spent 5 consecutive days secured in his cell for more than 22 hours each day

- Ryan was confined to his cell for more than 22 hours per day, constituting solitary confinement, on 18 days during a period of approximately two months
- there were 5 days on which it was not possible from the records to determine how long Ryan was confined to his cell
- on one occasion Ryan spent 13 consecutive days secured in his cell for more than 22 hours each day
- Ben and Ryan were segregated for longer than was reasonably necessary in the circumstances.

The Ombudsman observed that it was apparent from the departmental records that the reason Ben and Ryan were secured in their cells for more than 22 hours per day included:

- punishment for poor behaviour
- lack of staffing at the centre, and
- lockdowns occurring in the centre.

The department disputed this, submitting that the time the young people were secured in their rooms was 'based on assessment of risk' and not as punishment.

The Ombudsman observed:

"I do not consider that the records show that Ben and Ryan's behaviour always presented as a threat to themselves or others, yet they remained segregated for prolonged periods of time. A thorough analysis of the records shows that Ben and Ryan's poor behaviour was often as a direct result of prolonged periods of isolation."

"In my view, the prolonged periods of isolation and segregation of Ben and Ryan were, in effect, punitive."

The Ombudsman concluded that the department acted in a manner that was unreasonable, wrong, oppressive, unjust and contrary to law by:

1. segregating Ben for extended periods of time
2. segregating Ryan for extended periods of time
3. segregating Ben for longer than was reasonably necessary in the circumstances
4. segregating Ryan for longer than was reasonably necessary in the circumstances
5. securing Ben in a room for more than 22 hours per day
6. securing Ryan in a room for more than 22 hours per day
7. failing to provide sufficient cultural recognition and support to Ryan
8. failing to provide Ben and Ryan with sufficient education or vocational training
9. failing to provide Ben and Ryan with sufficient access to regular exercise and other stimulation
10. failing to ensure Ben and Ryan had sufficient private, unrestricted contact with their families

11. restricting Ben and Ryan's free movement by means of mechanical restraints when the prescribed circumstances in the *Youth Justice Administration Regulations 2016* did not apply
12. restricting Ben and Ryan's free movement by means of mechanical restraints as a form of punishment
13. failing to keep sufficient records.

The Ombudsman commented:

"A functioning youth justice system should not cause the young person further harm or contribute to their reoffending. The system should not do any harm to a young person and young people should leave the youth justice system in a better life position than when they entered it. In my view, the youth justice system failed Ben and Ryan."

"The AYTC had the opportunity to do significantly more to keep Ben and Ryan out of the adult prison system by doing more to attempt to rehabilitate them and by providing them with the care, correction and guidance necessary for their development into responsible members of the community."

The Ombudsman noted that improvements had been made by the department in relation to segregation, isolation, restricted routines and the use of mechanical restraints since Ryan and Bens' periods of segregation. However, the Ombudsman was not satisfied that the department could be sure that treatment such as what the two young people experienced was no longer being inflicted on other young people at the centre. Given this, the Ombudsman made 20 recommendations aimed at ensuring that the treatment of young people in the Adelaide Youth Training Centre is in accordance with the legislative requirements and human rights standards.

The Ombudsman's recommendations include that the department prohibit extended periods in isolation beyond 22 hours in any circumstances, and that the department conduct a review of the use of segregation and isolation in the AYTC.

The department has advised that it is committed to, wherever possible, immediately addressing any issues raised in the Ombudsman's report that have not already been addressed, and to implementing the recommendations.

The Ombudsman commented:

"Whilst I was extremely disheartened to read the records relating to the two young people, and the ways that I consider the youth justice system failed them, the department's response to my recommendations gives me reason to be optimistic that the treatment of young people at AYTC will improve."

For media enquiries, please contact Ombudsman SA on (08) 8226 8699. The Ombudsman's report is available on the Ombudsman SA website at www.ombudsman.sa.gov.au.