



Criminal Lawyers Association Northern Territory
18th Biennial Conference
29 June 2022 - Darwin Convention Centre

**‘If a “*tough on youth crime*” approach worked,
the NT would be the safest place in Australia’**



Protecting the best interests of Territory Children

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Office of the Children's Commissioner



Independent statutory office that is responsible for ensuring the safety and wellbeing of vulnerable children (Children's Commissioners Act (2013))

Object of the Act = What we do

- a) Ensure the safety and wellbeing of vulnerable children; and
- b) Promote continuous improvement and innovation in policies, practices and services relating to the safety and wellbeing of vulnerable children.



Current powers and functions of the Children's Commissioner are outlined in the *Children's Commissioner Act (2013) (CCA)*, which primarily relate to the following in so far as they relate to *vulnerable children*:



- ▶ Deal with complaints about services
- ▶ Monitoring the administration of the *Care and Protection of Children Act (2007)*
- ▶ Undertaking inquiries relating to the care and protection of a vulnerable child, and monitoring the implementation of relevant inquiry
- ▶ Monitoring the ways in which the CEO of Territory Families deals with suspected harm to children in their care
- ▶ Promoting an understanding of, and informing public discussion about the rights, interests and wellbeing of vulnerable children

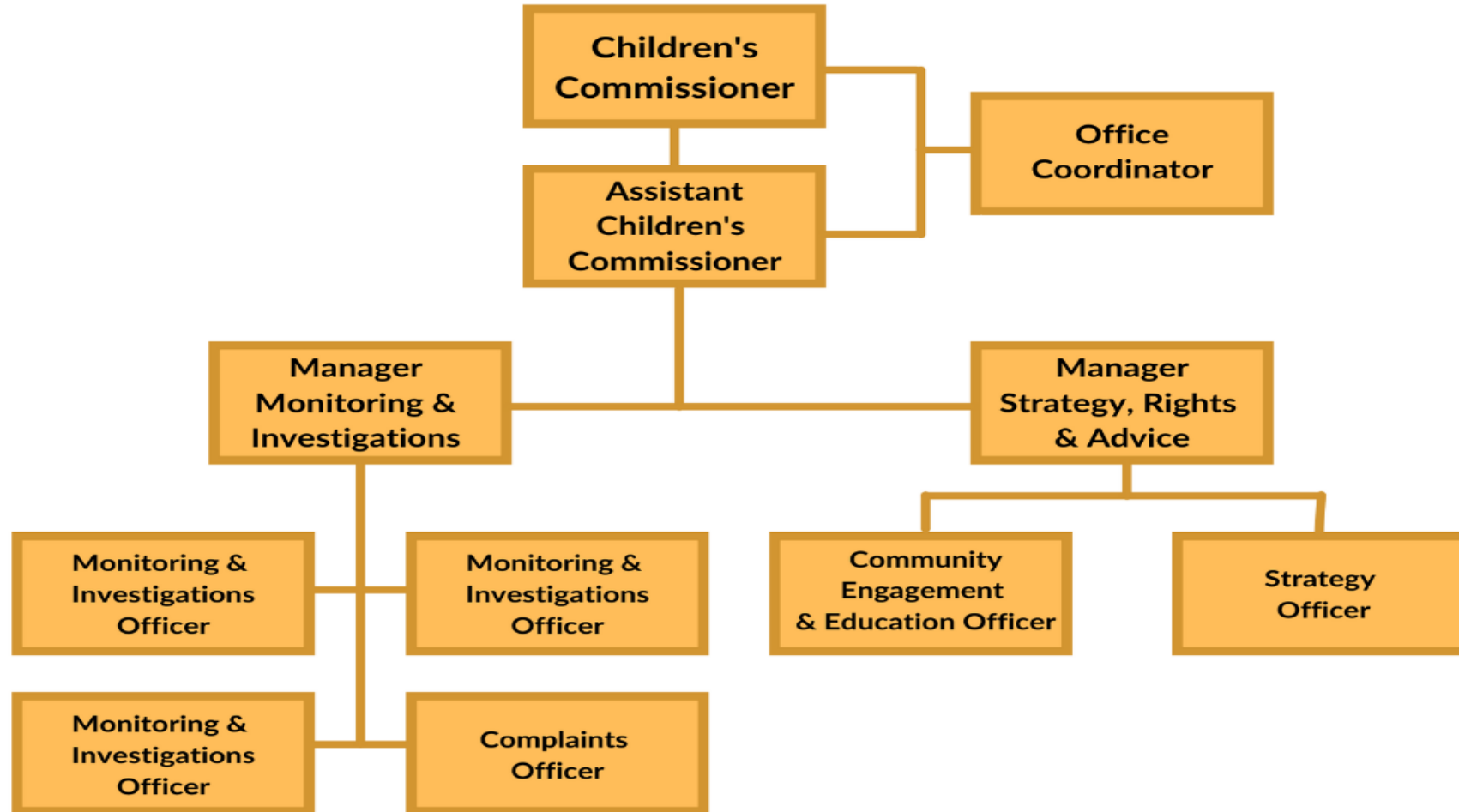


Vulnerable children (in the Act) includes, those who:

- ▶ Are in the child protection system
- ▶ Have been arrested, are on bail or on youth justice orders
- ▶ Are on volatile substance abuse orders
- ▶ Are suffering from a mental illness
- ▶ Have a disability
- ▶ Seeking or has sought care or support services
- ▶ a young person who has left care up to the age of 25, is considered to be a vulnerable child.



OCC structure



Monitoring and Investigations

Object of the Act

a) Ensure the safety and wellbeing of vulnerable children

- ▶ Monitoring places where children are detained (*detention, residential care, bail supported accommodation*)
- ▶ Complaints handling
- ▶ Monitoring of TFHC handling of suspected or potential harm to, or exploitation of, children in care
- ▶ Own Initiative Investigations into systemic or complex issues



Monitoring and Investigations

- ▶ Monitoring of places where children are accommodated
 - ▶ Preventative and quality improvement focus
- ▶ Complaints handling
 - ▶ A service provider failed to provide services for a child that was reasonably expected to provide OR
 - ▶ The services failed to meet the standard that was reasonably expected of the provider



Strategy, Rights and Advice

Object of the Act

b) Promoting an understanding of, and informing public discussion about the rights, interests and wellbeing of vulnerable children

- ▶ analyse information from complaints, investigations and community engagement to identify emerging systemic issues.
- ▶ Using evidence based research along with the experiences and views of Northern Territory (NT) children this team influences legislative reform and policy; provides advice to government and service providers.
- ▶ Education and awareness raising for agencies and broader community on issues relating to vulnerable children.



Strategy, Rights and Advice



Key submission and themes

- Northern Territory Youth Detention Model of Care
 - Evidenced based model with clearly defined outcomes and accompanying change management process to ensure effective implementation
- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a disability
 - Unassessed level of functional disability experienced by children in the NT, and the lack of accessible services and approaches to the care and protection of these children.
- National Children's Mental Health and Wellbeing Strategy
 - Elevating NT children's voices, and consideration to the intersectionality of children's needs and the prevalence of cumulative harm in the design of support models.
- Northern Territory Closing the Gap Implementation Planning



How does the OCC raise children's voices?

Rolling engagement - group and 1:1 consultations with children and young people across the NT.



Perceptions of children in the NT



Royal Commission recommendations



- ▶ Formalising free and unfettered access for existing and expanded monitoring of places where children live, including official visitor, OPCAT functions
- ▶ Expansion of jurisdiction to all children and young people in the NT
- ▶ Expand complaints function to receive complaints from children about police
- ▶ Strengthened research, advocacy, promotion, education and consultation functions
- ▶ Increased responsibility for relevant governance structures:
 - ▶ Oversight and reporting on Royal Commission implementation
 - ▶ Convene and administer Child Death Review and Prevention Committee
 - ▶ Establishing a representative Council of Children
 - ▶ Monitor and report on how the Charter of Rights for children and young people is being implemented in the Northern Territory



OCC Youth Detention Monitoring

Monitoring Domains



Safety and Stability – 'At risk' processes, therapeutic framework, cultural security

Therapeutic Programs – availability of programs which meet needs identified in care plans, YP participate in decisions

Physical Restraint – only used as last resort, separations not used as punishment, therapeutic conversations prior to challenging incidents to avoid and/or post to avoid future

Education – individual assessments and plans, access to appropriate education/training, teachers have therapeutic skills

Behaviour Management System – strength based individual approach, appropriate for cognitive disability

Staff Training and Professional Development – adequate supervision and critical debriefing, formal training opportunities



Informal Monitoring Visits

- DDYDC weekly / ASYDC monthly
- Child-friendly and voluntary engagement
- Core group of 4 OCC staff – build and maintain rapport
- Hear concerns directly from children and young people
- Recorded against the 6 domains of the OCC youth detention monitoring framework



Formal Detention Monitoring



DON DALE YOUTH DETENTION CENTRE

MONITORING REPORT

VISIT DATE: 24 – 28 FEBRUARY 2020

REPORT DATE: 09 JUNE 2020

Monitoring reports:
May 2019
June 2020
October 2021



2020 OCC DDYDC Monitoring Report



15 in DDYDC

All Male

All Aboriginal

80% on
Remand

11 Recommendations



2021 OCC DDYDC Monitoring Report



27 in DDYDC

25 Male
2 Female

26 Aboriginal

78% on
Remand

14 Recommendations



Tuesday 14 June
**Teens allegedly tried
to steal motorbikes**

Thursday 23 June
**Boy on car
theft charge**

Wednesday 15 June
**Arrests in
Katherine**

NATHANIEL CHAMBERS

NT Police have arrested eight teenagers in relation to a slew of alleged crimes across Katherine, including car theft and unlawful entries.

Tuesday 21 June
**Girl, 16, on
charges
over assault**

Sunday 26 June

CAR VANDALISM SPREE

TWO children have been arrested after they were allegedly involved in the smashing of windows on 25 cars in the Alice Springs CBD and hospital carpark.

Investigation undertaken by Strike Force Viper identified two youths, aged 12 and 13, allegedly involved in the criminal damage on Wednesday afternoon.

Police arrested the

pair on Friday, and charged them with 16 counts of damage to property and two counts of trespassing.

A 12-year-old boy will be dealt with under the Youth Justice Act.

Police have strongly opposed bail for the 13-year-old boy.

They are continuing to search for other people allegedly involved, using CCTV in particular.

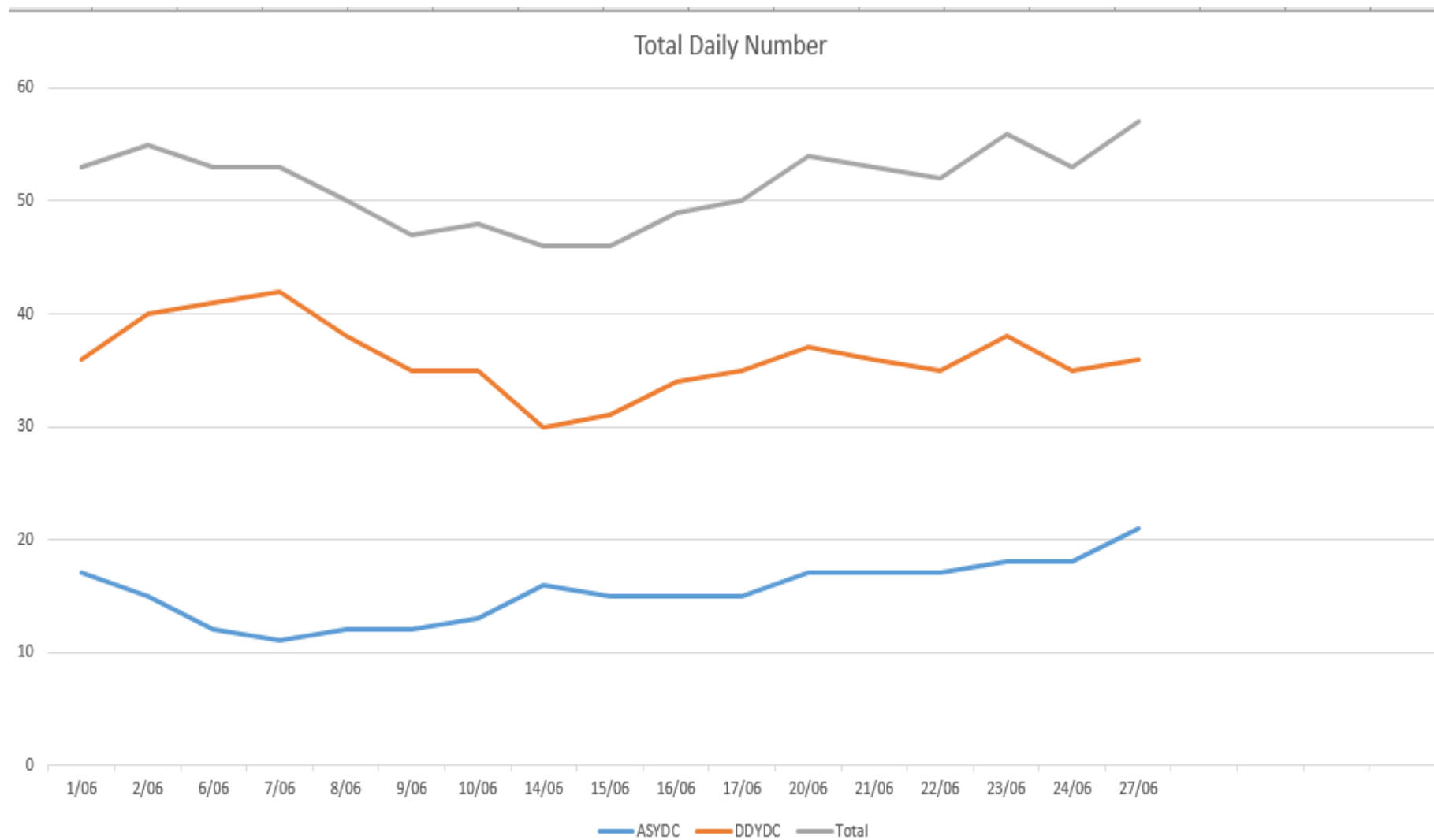
“DETENTION MESSES UP YOUR CHILDHOOD A LOT.
THEY DON'T UNDERSTAND WHAT IT DOES TO
YOUNG PEOPLE... GIVE US A CHANCE.

THE SUPPORTS I'M GETTING NOW
(IN COMMUNITY) ARE HELPING MORE.”

13 YEAR OLD, KATHERINE.

**"Tough on crime" is
just tough on kids.**

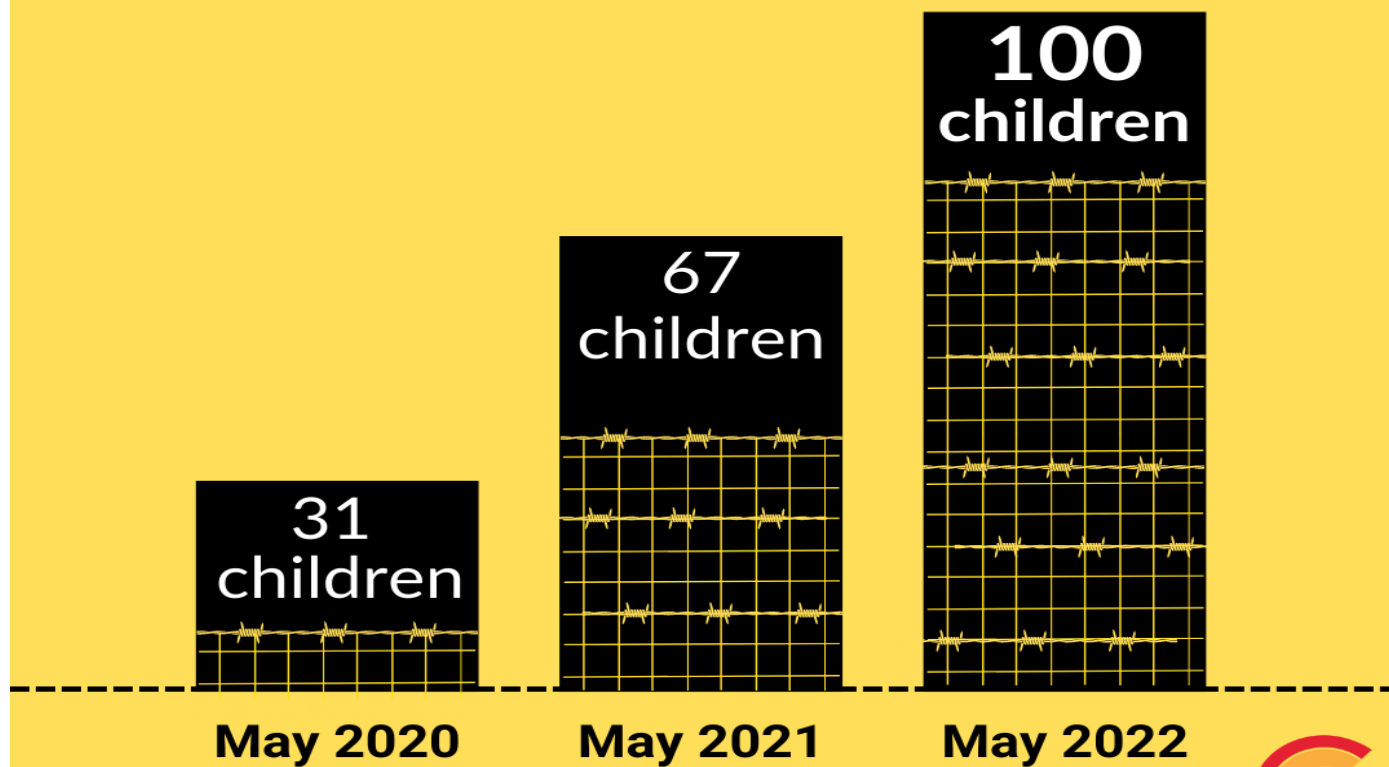




**** Please note Daily Census is not provided over the weekend and therefor not shown in graph****



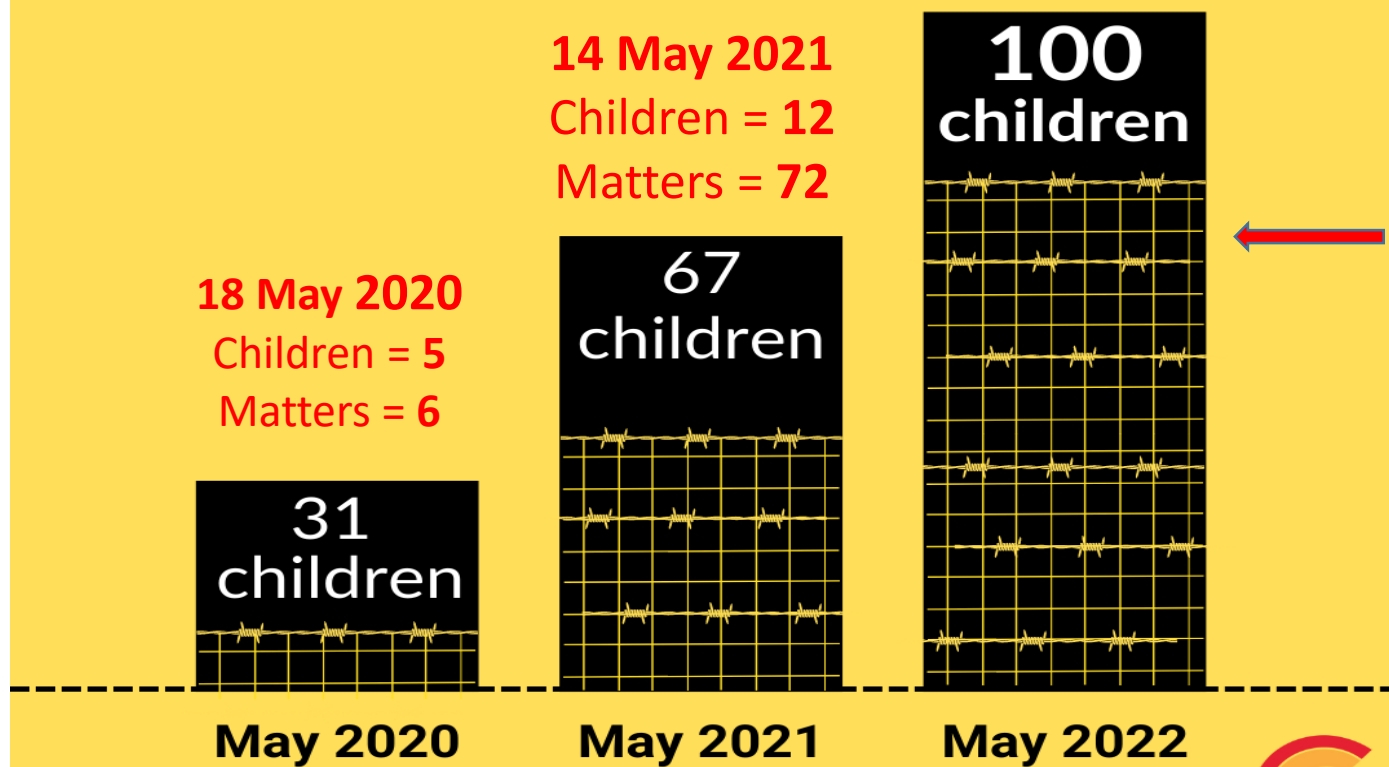
Number of unique children locked up in the NT in May:



Analysis of Youth Detention data from Territory Families, Housing & Communities



Number of unique children locked up in the NT in May:



18 May 2020
Children = 5
Matters = 6

14 May 2021
Children = 12
Matters = 72

14 May 2022
Children = 16
Matters = 72

Analysis of Youth Detention data from Territory Families, Housing & Communities



All Children Under 14yo in Youth Detention



2020/21 AIHW data = 22* U/14yo children

Nil - 10 year olds

Nil - 11 year olds

2021/22 Daily Census = 53

3 - 10 year olds

4 - 11 year olds



*Australian Institute of Health and Welfare 2021. Youth detention population in Australia 2021.

All Children Under 14yo in Youth Detention



2021/22 Daily Census = 53

Property = 9

Vehicle = 2

Person = 21

Not listed = 21

41 Male

12 Female

94%

Aboriginal



OCC Under 14yo Analysis



OCC completed OI's for 17 out of the 53

1 = 10yo
1 = 11yo
3 = 12yo
12 = 13yo
= 17

100%
Aboriginal

15 Male
2 Female



OCC Under 14yo Analysis



Average total CP
notifications = **29**

12 children had
harm substantiated

15 were
subjected
to DFV

All **17**
experienced
Neglect

14 had a parent
with AOD concerns

Inadequate
Care/Supervision
for **16**





All **17**
experienced
Neglect

POVERTY



and the

CHILD PROTECTION *to* YOUTH JUSTICE PIPELINE

In the NT there are
over 15,600 children
growing up below
the poverty line.

That's nearly
1 in 3 children.

Poverty experienced in the first 5 years of life is especially harmful to children's development, including physical and mental health outcomes.

Research shows that children growing up in poverty are far more likely to harm themselves and be involved in violent crime as young adults.



Sibling Groups



- Identifying a number of sibling groups presenting in detention (and inter-related sibling groups)
- Siblings as young as 10 or 11 years old in detention
- 2-3 siblings being held in detention
- History of significant child protection notifications



Case Study



- 10 and 12 year old siblings held in detention
- History of domestic and family violence, sexual abuse, parental alcohol and drug use
- Significant history of child protection notifications over a number of years (DV/neglect – no responsible adult, lack of food – extended family members report this is common)
- Come to attention of police when sleeping rough, public drinking/sniffing/cannabis use
- Apprehended for stealing



Own Initiative Investigations



Q – when were the first risks present?

- where were these identified?
- was action taken?
- was the action responsive to the level of risk present?

Q – if youth detention is being utilised in accordance with the Act as 'a last resort', have all supports and services required by the child been provided in a timely and appropriate manner?



Education Engagement is Critical



Friday 17 June

Fail for 26 schools

THE CLP has expressed alarm after 26 Territory schools were revealed to have attendance levels below 40 per cent.

The figures were revealed during an Estimates session on Tuesday afternoon with Education Minister Eva Lawler grilled. It emerged that no families were penalised in recent months for failing to ensure their children attended school.

The CLP's Jo Hersey said she wanted to see "community-led solutions" to try to address low attendance.

Former Chair of the UK Youth Justice Board, Rod Morgan (2007):



"It may be too much to say that if we reformed our schools, we would have no need of prisons. But if we better engaged our children and young people in education we would almost certainly have less need of prisons. Effective crime prevention has arguably more to do with education than sentencing policy".



Contact us



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