



Northern Territory **Legal Aid** Commission

## **ALL ROADS LEAD TO ALICE (VIA TENNANT)**

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LAWYER

# OUTLINE

## 1. Facilities

- ASYDC v DDYDC

## 2. Location

- Transfers

## 3. Bail and Remand

- Arrest as a first resort

## 4. FASD

- Misinterpretations of behaviour

## 5. Where to from here?



# INTRODUCTION

## November 2017

The Royal Commission into the Protection of Children in the Northern Territory delivered its final report in November 2017 making 227 recommendations.

## April 2018

Five months later, the Northern Territory stated it “accepted in the intent and direction of all recommendations” and promised to invest \$229.6 million over the next five years.

Don Dale	Alice Springs
15	10
Alice Detainees - 7	

Central Australian youth in detention in the NT - 17 (**68%**)

# ASYDC & DDYDC

ASYDC	DDYDC
10 males	26 bed facility
3 females	
1 classroom (max 16 students)	Multiple classrooms
1 recreation room (also the dining area) with 2 picnic tables and a bench	Multiple recreation spaces (pool table, playstation)
1 outside area with a basketball net and 2 picnic tables	Large outdoor space (horses)
Few programs	More programs

# PROGRAMS AT DDYDC

## Block Roster April 29<sup>th</sup>-May 5<sup>th</sup>

	Monday 29/4	Tuesday 30/4	Wednesday 1/5	Thursday 2/5	Friday 3/5	Saturday 4/5	Sunday 5/5											
7:30-8:30	MORNING ROUTINE																	
9:00	School	School	School	School	School		Art-Darlene											
9:30		V.E.T Training	V.E.T Training				Serving Thyme											
10:00		B & K Block 9-3	H Block 9-3				B M Block 9-11											
10:30	Break					AFL Oval Jayden H 10-11	Visual Arts B Block 10-11 <b>Must be B</b>	K 9-11	Red Cross K In Block 9-11	Yarraman H & or K (those not engaged in cooking) Mix Block Oval 9-11								
11:00	School	School	School	School	School													
11:30		V.E.T Training	V.E.T Training			AFL Jayden M Block K 1130-1230	Rec Time M K 1130-1230	Yarraman B Block Oval 1130-130										
12:00		B & K Block 9-3	H Block 9-3			Balance Choice In Block B 12-1 H 1-2 K 2-3	Basketball NT B 1-2 H 2-3 M Block	Balance Choice M B 12-1 K 1-2 H 2-3	Visual Arts B Block 2-3 3-4YP only <b>Must be B</b>									
12:30	LUNCH																	
13:00	School	School	School	School	School													
13:30		V.E.T Training	V.E.T Training															
14:00		B & K Block 9-3	H Block 9-3															
14:30																		
15:00	Break																	
15:30																		
16:00	Bal Choice H 345-445 K 445-545	Upai Purri B In Block 430-530	D.Dilba Yarning H In Block 4-5	Rec Time K 4-530 M Block	Bal Choice B 430-530 M Block	Bal Choice K 345-445 B 445-545 M Block	Youth. For Christ Music 4-5	D. Dilba H In Block 4-5	Bal. Choice K 4-5 In Block B 5-6 M Block	Martina EMP H 4-5 In Block	D.Dilba Soccer/ sports B 4-5 Basketball court	Upai Purri K In Block 430-530	AFL First Steps B 4-530 M Block	Rec Time H 4-530 M Block	Danila Dilba Cooking H In Block 4-6	Hoops M Block B 4-5 K 5-6	SoundEd B Block 4-6 M Block	Hoops M Block K 4-5 H 5-6
16:30																		
17:00																		
17:30																		
18:00	Dinner																	
18:30	LOCK DOWN																	

# PROGRAMS AT ASYDC

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
TIME	1 April	2 April	3 April	4 April	5 April	6 April	7 April
7:30	UNLOCK AND MORNING ROUTINE						
8:00	UNLOCK AND MORNING ROUTINE						
8:30	School	School	School	School	School		
9:00							
9:30						ASYASS	NT Basketball
10:00							
10:30	LOCK DOWN						
11:00		First Steps AFL Program Intro ALL YP					
11:30	School		School	School	School		
12:00							
12:30	LUNCH					LUNCH	LUNCH
					Tangentyere Youth Services NON SCHOOL YP		
13:30	School	School	School	School			
14:00	First Steps AFL Mentor Program Intro ALL YP			Relationships Australia NON SCHOOL YP	Mentor Visit – Michael Liddle Cultural Perspective		
14:30							
15:00	Bluearth	Recreation Area	ASYASS	ASYASS	Australian Rugby Visit	Bluearth	
15:30							
16:00							

# COURT LODGEMENTS

	Darwin	Alice Springs
2016-2017	918	1051
2017-2018	769	830
2019- May 2019	682	1003
Listings 2018-2019	4699	7050



## June 2018


ASYDC was evacuated due to an incident

17 young people taken to Police Watch House overnight


## July 2018

An official Visitor found ASYDC was at “**crisis point**” and advised the centre should be closed.

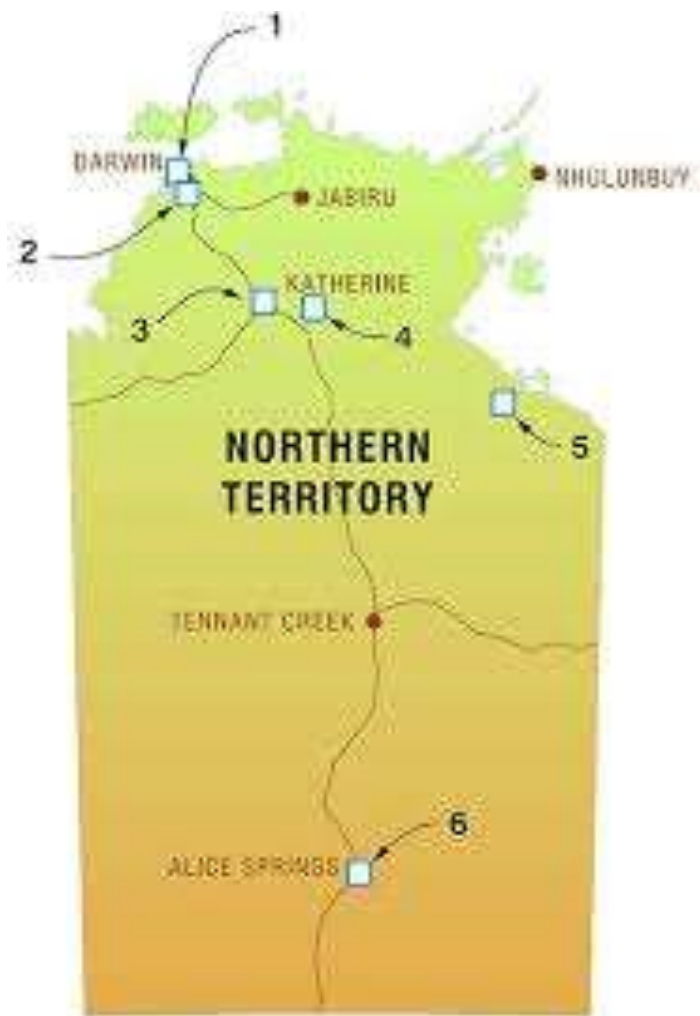
## **CASE STUDY: AH**

- AH spent approximately 4.5 months in detention on remand before being sentenced
  - During this time, school in ASYDC was closed on 12 school days due to understaffing by Territory Families.
  - When the school was open and the centre was overcapacity. AH had access to half days at school.
  - AH shared a room with 1 to 4 boys and regularly slept on a mattress on the floor.
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# CONSEQUENCES OF OVERCROWDING

- Young people regularly share rooms (i.e. room for 1 youth is used for 3, room for 2 youth is used for 5).
  - Less privacy – each room has 1 toilet
  - Less access to education
  - Capacity of school is 16
- 





# CONSEQUENCES OF TRANSFERRING YOUTH FROM ASYDC TO DON DALE

- Family can not visit the facility which causes loneliness and alienation
  - Key support services including social workers, youth outreach officers and other support services are unable to visit
  - Lawyers can not sit to discuss court matters and take instructions in person
  - Court: young person travels down the day of which causes fatigue and stress.
  - Tension between Darwin boys and Alice Springs boys
  - Development of robust post-release plans is difficult
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# CASE STUDY: LM

## 1<sup>st</sup> call

He said, he was feeling bored and sad.

I asked, can you yarn with them mob?

He said, no because they are missng their family too.

## 2<sup>nd</sup> call

He said, I still don't know what my future looks like



# CASE STUDY: WH


- WH had a **hearing** and was **flown to Alice Springs** on the 7am flight from Darwin. He was woken up before 5am to catch the flight.
- He arrived at court just before 10am. His hearing took all day. He was required to give evidence. During his cross-examination, questions were put to him about what other witnesses had said in their evidence. **He could not remember**. It was put to him that one of the reasons he couldn't remember was because he simply did not care to pay attention. Although this line of questioning did not affect the outcome of the matter, it affected the young person. It caused frustration and anger.




# CASE STUDY: CW

- CW was transferred to Don Dale
- He **opposed** the transfer. His family **opposed** the transfer. His
- YOREO **opposed** the transfer. His lawyer was **not**
- **consulted.**
- CW was notified of the transfer the morning of his flight. His
- family were not informed.
- CW had never been on a plane or away from his family.
- **It was scary, I was holding the guards hands when the plane was lifting off.**
- 1 week after being transferred, a riot broke out in Don Dale
- and CW, along with all other youth were taken to the Darwin watch house for 5 days.

# CASE STUDY AH

- AH is a 15 year old on bail.
  - He has a curfew between 8pm and 7am.
  - Police attended AH's residence for a bail check at 11:30pm. No one was present at the residence.
  - 5 days later, Police attended AH's *home* at 7:30am and arrested him for breaching his bail 5 days earlier.
  - He spent approximately 9-10 hours in the watch house before being granted bail by the on-call Judge.
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# CASE STUDY KM

- KM is a 12 year old on bail.
  - He has a curfew between 7pm and 7am.
  - One Friday evening, he attended a school holiday program at a local youth centre
  - He was arrested whilst **playing basketball** at 7:40pm for breaching his curfew
  - He was taken to the watch house and was granted bail by the on-call Judge the next afternoon.
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## 4. FASD

Fetal alcohol spectrum disorder is colloquially known as FASD.

**Definition:**

A **severe** neurodevelopmental impairment that results from brain damage caused by alcohol exposure before birth.

# FASD – in the legal context

- Affect capacity to stand trial/ understand police process
  - Poor memory + low self esteem – lead to confabulation
  - Poor executive function – abstract concepts not understood
  - Poor language skills – cannot assist counsel effectively
  - Poor attention – cannot sustain concentration on trial or police processes
  - Hyperactivity, Desire to please – APPEAR chatty and comprehending
  - Poor executive function, Adaptive skills, Memory – open to suggestion
  - Multiple other combination possibilities

*“Importantly, decision-making ability, which is basic to CST, is universally impaired in FASD”* – Brown et al  
Int J of Law and Psych, 52(2017), 19-27

## Common Misinterpretations of Behaviour

What we see	What we think	What's REALLY going on
Noncompliance	Doing it purposely and maliciously	<ul style="list-style-type: none"><li>• Difficulties translating verbal directions into action</li><li>• Doesn't understand</li><li>• Memory problems</li></ul>
Repeatedly making same mistakes	Doing it on purpose, manipulative	<ul style="list-style-type: none"><li>• Cannot link cause to effect</li><li>• Cannot see similarities</li><li>• Difficulty generalising from one event to another</li></ul>
Often late or doesn't attend appointments	Lazy, slow, doing it on purpose	<ul style="list-style-type: none"><li>• Cannot understand the abstract concept of time</li><li>• Needs assistance getting organised</li><li>• Needs ongoing support and reminders</li></ul>
Poor social judgement	Poor parenting Doing it on purpose	<ul style="list-style-type: none"><li>• Not able to interpret social cues from peers</li><li>• Does not know what to do in social settings</li><li>• Can't control impulses</li></ul>
Stealing	doing it on purpose	<ul style="list-style-type: none"><li>• Not understanding right from wrong</li><li>• Can't generalise to other contexts</li><li>• Led by peers</li><li>• Can't control impulses</li></ul>

Adapted from Debra L. Evenson 1994



## Young offenders must be screened for fetal alcohol spectrum disorders before sentencing

October 13, 2015 1:25pm AEDT

It's vital to ensure youth put behind bars have been properly assessed before sentencing. [From ABC Business.com](#)

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134

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Australia's prison population is growing at [unprecedented rates](#). In some states Indigenous prisoners far outnumber their non-Indigenous counterparts.

Last year in the [Northern Territory](#), 86% of those in prison and 96% of those in juvenile detention were Indigenous. [In Western Australia](#), Indigenous people account for only 3% of

Author



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# CASE STUDY - KM

- KM is a 13 years old on remand at ASYDC. He has been diagnosed with FASD. He has difficulty with **memory** and requires information be repeated regularly in multiple different ways.
- KM's matter was adjourned. I explained everything to him, many times, in many different ways. But KM forgot. A few days later, at ASYDC he asked an officer what happened and when he was going home. They didn't know. He got **upset** and jumped onto the roof. A code white was called – "**attempted escape.**"
- KM got off the roof after he was told I was there to speak with him and answer his questions.



# ASSESSMENTS

Who can I refer to?

**Alice Springs:**

- Congress multidisciplinary team

**Darwin**

- Patches (WA based)



## **WHERE TO FROM HERE?**

**What can practitioners (legal and social) do to address some of the limitations of the current system?**

- 1. Be creative**
- 2. Be collaborative**



IT'S TIME TO TAP INTO THE  
POWER OF YOUTH

