

Queensland Youth Detention Centres Inspection Framework

Revised 2011

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1. Background

Regular inspections of Queensland youth detention centres commenced in 2002 following publication of the *Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions 1999* (the Forde Inquiry). The Forde Inquiry found that incidents of abuse occurred in church and state-run facilities such as youth detention centres, and made the recommendation:

...That requirements for the department to conduct regular inspection and monitoring of residential care facilities and juvenile detention centres be specified in legislation.
[Recommendation 17]

As a result, the Queensland government committed to the implementation of recommendation 17 as part of its response to the Forde Inquiry. Subsection 263(4) was duly inserted into the *Youth Justice Act 1992* (YJA), and requires the Chief Executive (of the Department of Communities) to monitor the operation of the detention centres and to inspect each detention centre at least once every three months.

Inspections are conducted by the Youth Detention Inspectorate (the Inspectorate), within Compliance, Reviews and Youth Detention Inspections, Internal Audit and Compliance Services, Office of the Director-General. This 'arms length' positioning from detention centre operations within Regional Service Delivery Operations provides the department with a robust and independent internal youth detention inspection function.

The Chief Executive is responsible for the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres (s263 YJA). As delegates of the Chief Executive and through its inspections of the detention centres, the Inspectorate informs and assists the Chief Executive in the department's management of the risks associated with her responsibilities. The inspectorate function proactively identifies potential issues and risks in the areas of security, management, safe custody and wellbeing and seeks to address or manage these risks through its making of practical recommendations for the consideration and action of relevant internal departmental stakeholder/s.

Inspections contribute significantly to organisational risk prevention and differ from other departmental oversight mechanisms such as audits, performance

measurement and quality assurance. While inspections incorporate a degree of compliance testing, they also focus on the outcomes that flow from practice outputs. For example, inspection findings are made in relation to the overall effectiveness of policies and procedures related to achieving the Chief Executive's responsibilities, including their workability, any unintended consequences of their implementation and associated actual or potential risk.

2. Stakeholders

The primary client of the inspection process is the Chief Executive, following delegation to the Inspectorate of the functions of s263 of the YJA. The inspected entities are the Brisbane Youth Detention Centre (BYDC), including the Childrens Court of Queensland (Brisbane) cells; the Cleveland Youth Detention Centre (CYDC), Townsville; and any other detention centre established by the department. Inspection reports are owned by the Chief Executive and Internal Audit and Compliance Services. Other stakeholders include:

2.1 Regional Service Delivery Operations:

- Associate Director-General, Regional Service Delivery Operations
- Assistant Director-General, Statewide Services
- Directors, BYDC and CYDC ('Centre Directors')
- Director, Youth Detention Operations (YDO)
- Detention centre staff
- Union representatives
- Youth Justice Quality Assurance Unit.

2.2 Organisational Services:

- Legal Services
- Human Resources and Ethical Standards.

2.3 Office of the Director-General:

- Complaints and Review.

2.4 External stakeholders:

- Young people in detention
- Parents and care providers of young people in detention
- Commissioner for Children and Young People and Child Guardian (the Commissioner, CCYPCG)
- Queensland Ombudsman.

3. Statutory and other authorities

A variety of authorities provide the mandate and conditions for open and transparent inspections and monitoring of Queensland youth detention centres and the scope of examinable areas. Section 263 of the YJA provides that:

- *the chief executive is responsible for the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres*
- *the chief executive must monitor the operation of the detention centres and inspect each detention centre at least once every 3 months*
- *as far as reasonably practicable, the chief executive must ensure principles 3, 15, 19 and 20 of the youth justice principles are complied with in relation to each child detained in a detention centre.*

These provisions form the basis for the inspection function and the basis from which inspection focus areas are drawn. While the YJA and *Youth Justice Regulation 2003* (YJR) contain the main legislative provisions administered by the department, non-departmentally-administered legislation may also impact on and influence detention centre operations from time to time — for example, safety provisions of the *Workplace Health and Safety Act 1995* and the *Police Powers and Responsibilities Act 2000*, which demarcates the responsibilities of youth detention officers and police officers during interviews of young people in detention. Departmental policies may also be used to inform inspection areas, although the primary focus is on outcomes of policy implementation. Any anomalies detected by the Inspectorate between policy, legislation and standards will be highlighted in inspection reports.

In addition to statutory authorities, the Chief Executive is obliged to ensure the department adheres to relevant conventions, rules and standards to which Australia is signatory, in addition to implementing recommendations made by Commissions of Inquiry that the Government has agreed to implement (see Appendix A for examples). An example of a breach of the 'standards' referred to above was highlighted as part of the government's response to the Forde Inquiry:

The Inquiry found that current detention centre operations were struggling in their role to divert and rehabilitate young people from graduating to the adult prison system... They may breach legislative requirements, acceptable standards or United Nations Conventions (p4).

4. Inspection purpose

In accordance with the authorities outlined in the preceding section, the purpose of conducting inspections of Queensland youth detention centres is to:

- review and promote the safety and wellbeing of young people in detention
- report to the Chief Executive on:
 - findings related to actual or potential non-compliance of detention centre practices with legislation, policies and standards, and any inconsistencies between these authorities
 - impacts on young people and staff from implementing the above authorities
 - risks and systemic issues related to the above
 - recommendations to address findings and systemic issues, which may be informed by observations of relevant national and international good practice
- monitor the implementation of approved recommendations to ensure their intent is followed in practice.

5. Inspection methodology

Inspections are based on a mixed-method methodology that examines both qualitative and quantitative data gathered by the Inspectorate and derived from existing administrative sources before, during and after each on-site phase. Data sources will be triangulated to ensure any findings can be used to inform meaningful and practical recommendations.

The Inspectorate will maintain a code of Expectations derived from relevant authorities and recommendations from Commissions of Inquiry that the Government has agreed to implement. Each Expectation is underpinned by test criteria and example data sources that may be used to inform inspection focus areas across the full range of the Chief Executive's responsibilities under s263 of the YJA. A forward program of inspection focus areas will be developed annually, based on the Inspectorate's consideration of risk ratings for each Expectation and the current risk mitigation strategies employed at each detention centre. Other issues or risks relevant to the Chief Executive's responsibilities that have been noted by Inspectors in the course of previous inspections or that emerge on site will also be examinable.

Inspection questions based on the Expectations will be used by the Inspectorate to test each focus area through data gathering and analysis. For example, for the focus area of 'personal searches of young people', Inspectors might ask questions such as:

- What approach is taken to ensure that searches involving the removal of clothes occur only for legislated reasons?
- What are young people's general experiences of searches involving the removal of clothes — do young people understand when and why they are warranted?
- What suggestions for improvement can staff, management and young people suggest for this focus area? What good practice has been identified in other jurisdictions?

5.1 Data gathering techniques

Specific data collection techniques used by the Inspectorate can include, but are not limited to:

- interviews with key personnel relevant to focus areas
- interviews and focus groups with young people
- interviews and meetings with external service providers, where relevant
- field observations of processes and interactions
- inspection of specific locations, areas and equipment
- examination of documentation, which includes but is not limited to:
 - departmental policies
 - centre rules and memoranda
 - logs, registers, and audit sheets
 - young people's case files, including case notes, case plans, behaviour development plans, program outcomes, and reintegration plans
 - all reports used within the centre, for example: incident, behaviour and maintenance reports (except where appropriate, reports pertaining to matters under investigation)
 - all electronic documents, databases (e.g. DCOIS and ICMS) and recordings pertaining to the above, such as incident register spreadsheets and CCTV footage (this will be facilitated by maintaining the Inspectorate's direct access to detention centre computer servers, and Inspectors will confirm the currency of documents accessed to inform inspection findings with Centre Directors).
 - data from interested parties such as CCYPCG's surveys of young people in detention and Community Visitor reports; and information supplied by the department's Ethical Standards Unit and Statewide Services.

5.2 Participant sampling

5.2.1 Staff

Operational and casework staff may be selected by the Inspectorate for discussions, focus groups and interviews through targeted samples of convenience. Staff in positions most closely associated with the relevant inspection focus areas will be identified by the Inspectorate and interview times may be scheduled with the assistance of the Managers of Monitoring and Compliance at each centre, if required.

The Inspectorate will advise staff of the areas for discussion, and advise that information supplied by them could be reportable and confidentiality cannot be guaranteed. Data gathering from relevant managerial staff will occur during individual interviews. Centre Directors and the Managers of Monitoring and Compliance (or their nominated delegates) will be interviewed and consulted during every inspection. Other managers and supervisors interviewed may include: Deputy Directors, Unit Managers, and Team Leaders (Case Management).

5.2.2 Young people

Speaking in depth with a variety of young people is an essential part of the inspection methodology. Discussions, interviews and focus groups may be conducted with young people selected through quota, targeted, critical case or convenience samples. For example, quota sampling might be used if the Inspectorate wanted to compare practices between different accommodation units: several young people from each unit might be approached to participate, either by unit or casework staff, or by the Inspectorate during meal breaks or pre-interview rapport building. Inspectors might also wish to speak with quotas of male, female, Aboriginal and Torres Strait Islander and non-Indigenous young people to gain their perspectives on certain focus areas. Targeted sampling will be used when Inspectors wish to speak with young people who have specific experience in relation to a focus area not shared by their peers — for example, young people for whom behaviour development plans have been devised or those who have not received family visits.

All young people engaged through the inspection process will be provided with an opportunity to speak with Inspectors in private. Inspectors will explain the nature of focus areas to young people interviewed and will advise them that their confidentiality cannot be guaranteed and that the information they supply may be included in inspection reports or reported directly to appropriate managers. (Where Inspectors find evidence of harm or suspected harm to a young person, this will be immediately reported to the relevant Centre Director (note: Centre Directors have been delegated the Chief Executive's responsibility for receiving harm reports) or the Assistant Director-General, Statewide Services if appropriate – e.g. where allegations involve the Centre Director and a conflict of interest would occur.

Young people's participation will be by verbal consent, which may be withdrawn at any time and young people may have a support person present upon request. Young people will be advised that the role of the Inspectorate is not to take up

specific complaints, but is to discuss general experiences and understandings that may be informed by specific issues and occurrences. Inspectors may advise young people of available avenues through which to make a complaint, should issues of concern be raised by young people. Where Inspectors identify that a previously-raised complaint may not have been correctly processed, it will be escalated to the appropriate manager or, if required, the Chief Executive.

6. Inspection phases

On-site inspections will occur within each quarter to meet the minimum legislative requirements. Inspection reports will be titled accordingly: March quarter, June quarter, September quarter and December quarter. The consultation process detailed below and diagrammed on page 13 is intended to support sound findings and workable recommendations, while maintaining the independence of the inspection reporting process.

6.1 Pre-inspection planning

Relevant stakeholders will be supplied with this Framework, the Charter and the Expectations. The Inspectorate will advise Centre Directors of inspection dates and focus areas prior to each announced on-site visit via notification letters. Any documentation not obtainable by the Inspectorate through its direct access to BYDC and CYDC electronic servers will be requested from Centre Directors via a checklist. Centre Directors are required to provide the data requested in a timely manner prior to the on-site phase, or if required, in a timely manner during the secondary data analysis phase. The Inspectorate will organise a pre-inspection group 'scoping' discussion with the: relevant Centre Director; Director, YDO; Director, Youth Justice Policy, Programs, Performance and Practice and Assistant Director-General, Statewide Services at least 1 to 2 weeks prior to the scheduled inspection to ascertain any background issues or concerns they may wish to highlight for the Inspectorate's attention.

6.2 Entry meetings

At the commencement of an inspection, Inspectors will hold an entry meeting with the Centre Director and/or their delegate/s. Entry meetings will canvass the scope of the inspection and invite input from the Centre Director on any current matters of concern.

6.3 On-centre liaison

The Inspectorate will liaise with officers delegated by Centre Directors during and after each inspection. Liaison officers will, where required by the Inspectorate, assist with data provision and interview scheduling. They will also serve as the main contact point for the Inspectorate during the course of inspections. Urgent issues will be raised with Centre Directors immediately, should they emerge during the inspection week (see also **5.2.2** Young people - re harm). Issues that may have wider implications will also be raised with the Assistant Director-General, Statewide Services.

6.4 Exit meetings

Inspectors will conduct exit meetings with Centre Directors to formally conclude the inspection fieldwork. During exit meetings, Inspectors will canvass preliminary findings that may inform development of the inspection report. Centre Directors will have the opportunity to provide initial feedback and seek further advice at the exit meeting.

6.5 Data analysis

Secondary data gathering and analysis will continue after the on-site phase. At this stage, other departmental units and government agencies may be consulted regarding good practice relevant to focus areas, for example, the Queensland Police Service; Legal Aid services; the Youth Advocacy Service; the department's Organisational Health Unit; Queensland Health and Education Queensland.

6.6 Findings and recommendations¹

Once data analysis has been finalised, any relevant legal advice has been obtained and good practice examples have been researched, the Inspectorate will prepare its

¹ See Operational Procedure 'Inspection and Monitoring of Queensland Youth Detention Centres' for further detail.

findings. Findings will encapsulate why a fact or set of facts may present an issue for the Chief Executive in terms of compliance, outcomes, and risks. As discussed in the section 'Inspection Purpose', Inspectors will then draft Recommendations stemming from the findings. Recommendations will be tailored to permit flexibility in local responses where possible, while clearly seeking to remedy sub-optimal practice.

Where possible, low risk non-compliance findings (e.g. young person missing their recreational program activities for a week) and Recommendations (usually related to business improvement opportunities), will be reported to Centre Directors during exit meetings. These will be included in the initial report provided to the Centre Directors, however, they will not be included as part of Implementation Plans and Centre Directors will not be required to respond formally. Such items will still be monitored during the general course of subsequent inspection visits.

6.7 Consultation, reporting and Implementation Plans

The Inspectorate will release a consultation draft of each inspection report to the relevant Centre Director and Assistant Director-General, Statewide Services 20 working days after the completion of the on-site inspection phase. The draft report will detail the findings and Recommendations arising from the inspection and summarise these in an Implementation Plan that forms part of the inspection report. The Centre Director and Assistant Director-General, Statewide Services will be required to provide, within 20 working days, written responses to each Recommendation within the Implementation Plan (see monitoring and verification process on page 13). Implementation Plans must show:

- whether Statewide Services agrees or disagrees to implement each recommendation
- the rationale for any disagreement with a recommendation
- responsible action officers, projected implementation dates and detailed implementation actions for each recommendation.

The Inspectorate will then prepare a final report for the Chief Executive comprising the Inspectorate's findings and recommendations and the completed Implementation Plan. The Chief Executive's endorsement of the report (incorporating the Chief Executive's acceptance/rejection/amendment of Recommendations in the Implementation Plan, including any relevant commentary) will be sought under the cover of a Memorandum for Approval. The Memorandum will outline particular

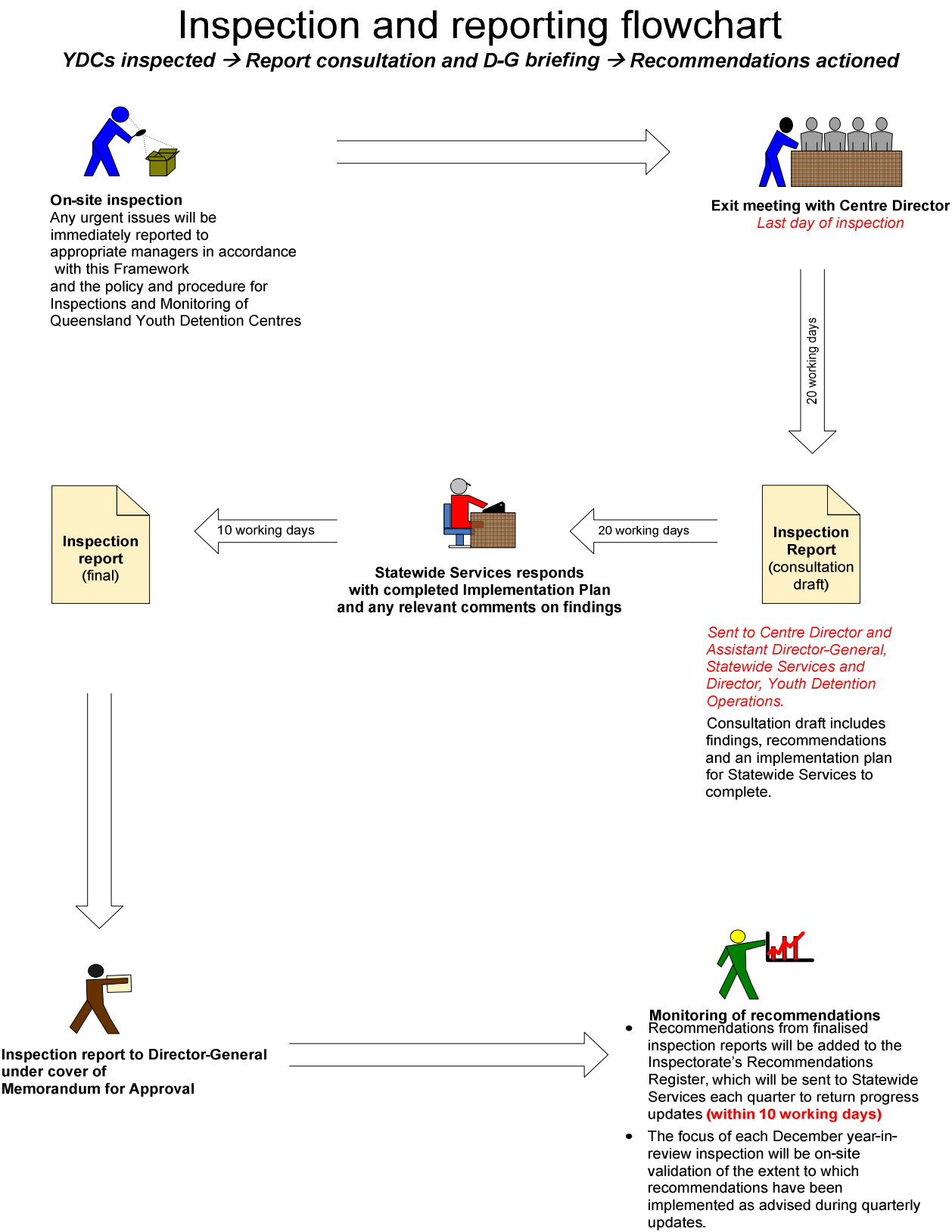
issues of risk and any disagreement by Statewide Services with recommendations. Copies of approved final reports will be forwarded to the Assistant Director-General Director, Statewide Services and the relevant Centre Director.

6.8 Monitoring and verification of recommendations

Recommendations made for monitored areas will be followed up on-site at scheduled inspections. However, all approved Recommendations will be monitored via a Recommendations Register as follows:

- the Assistant Director-General, Statewide Services will be required to respond to quarterly requests for status updates of all Implementation Plan items, outlining what action has been taken to implement each Recommendation via an updated Recommendations Register
- the Inspectorate will provide six-monthly advice to the Director-General (via a Memorandum for Approval) of any outstanding and/or subsequently amended approved implementation actions and dates (as evidenced in quarterly updates within the Recommendations Register)
- in each December quarter and other quarterly inspections as appropriate, the Inspectorate will conduct on-site verification of Recommendations indicated by Statewide Services to have been addressed
- the Inspectorate will report, as appropriate, any immediate high risk items to Centre Directors, the Assistant Director-General, Statewide Services and, where required, directly to the Chief Executive or Ethical Standards Unit, if appropriate
- the Director-General will be briefed by the Inspectorate on a 'by exception' basis where implementation of agreed recommendations significantly exceeds nominated dates. Statewide Services will be consulted for rationale to be included in the briefing note.
- inspection reports and the Recommendations Register will be provided to the Commissioner for Children, Young People and Child Guardian (the Commissioner) on a quarterly basis (following Ministerial agreement to implement one of Commissioner's 2010 recommendations) and to the Queensland Ombudsman upon request (and with the approval of the Chief Executive) — these agencies may elect to undertake additional independent monitoring of certain inspection findings and Recommendations through their own processes.

The following diagram shows the inspection process and relevant timeframes from each on-site phase through to report finalisation and monitoring of recommendations.



7. Focus areas

Focus areas (based on the Expectations – see p7) will be identified and a risk assessment will be completed for each detention centre to determine examinable areas. The primary focus will be on areas that directly relate to the safety custody and wellbeing of young people in detention, although the Chief Executive's other statutory responsibilities for the security and management of detention centres will also be examinable.

Inspections will help to ensure long-term and self-directed improvements through the monitoring of previous recommendations and by examining systemic issues. For example, Inspections will examine local systems put in place by Managers of Monitoring and Compliance and/or relevant central office staff to deal with previously identified issues. Questions for focus areas could include:

- What systems are in place to ensure that staff practices are lawful and/or policy-compliant?
- What have been the outcomes of these systems?
- Have there been local reviews and evaluations of staff practices and monitoring systems? What trends have been identified? What are the intended actions to address identified issues?

7.1 Scheduled areas

While the risk assessment will assess risk across all focus areas and capture the result in the risk matrix for each centre (see paragraph 7.3), the following focus areas are pre-scheduled, as they are considered by the Inspectorate to have inherent high risk attributes:

7.1.1 Searches involving the removal of clothes

The Forde Inquiry recommended:

..That the department review the practice of unclothed searches with a view to reducing their use, and that detailed documenting (date, time, reason and process used) for every such search be made [Recommendation 7].

To ensure that Recommendation 7 of the Forde Inquiry is implemented as intended, the Chief Executive approved a recommendation of the department's *Review report of the unclothed searching of detained young persons in Queensland youth detention centres 2005*; namely, that the focus area of searches involving the removal of clothes be inspected every six months.

7.1.2 Use of force

Statutory non-compliance with use of force provisions under the *Youth Justice Regulation 2003* were identified during the December quarter 2007 inspection in relation to policy, staff training and centre practices. The issues identified were systemic in nature and embedded within centre practice. Regular inspection and monitoring of the use of force now occurs given the risks associated with this area and to oversee continued compliance regarding the legal use of force on young people in detention.

7.1.3 Reporting

Previous inspections identified gaps in the monitoring and reporting of incidents of harm to young people in detention. Regular inspection of this focus area provides independent oversight of Centres' monitoring processes and assists them to develop rigorous and accountable processes.

7.1.4 Separations

The March quarter 2008 inspection identified legislative non-compliances regarding separations of young people in locked rooms, and cases where the use of prolonged separation did not meet the intent of the *Youth Justice Act 1992*. As with behaviour

development plans, regular inspection and monitoring of this area is intended to encourage improved work practices regarding the management of detained young people who display difficult behaviours.

7.1.5 Behaviour development plans

The March quarter 2008 inspection report identified cases where behaviour development plans did not comply with the intent of the *Youth Justice Regulation 2003*; recommendations from the Forde Inquiry and *Royal Commission into Aboriginal Deaths in Custody*; and policy requirements for comprehensive multi-disciplinary input. Regular inspection and monitoring of this area will promote compliance with these authorities and encourage improved work practices regarding the management of detained young people that display difficult behaviours.

7.1.6 Contraband

The area of contraband will be monitored every six months alongside the focus area of searches involving the removal of clothes. This is to ensure that a balance is maintained between the security needs of the centre and the wellbeing of young people in relation to such searches. Regular inspection of this focus area will also help ensure that frequent and thorough searches of locations and property occur within each centre as alternatives or supplements to personal searches of young people.

7.1.7 Complaints management

Significant gaps in complaints management at the centres were found as part of the September 2009 inspections. This led to the creation of a complaints policy and procedure for youth detention centres, which became effective in 2010. A responsive and robust complaints management process is essential to preserve the safety and wellbeing of detained young people and to bring instances of potential staff misconduct to light. As such, complaints management will be subject to continual monitoring by the Inspectorate to ensure that current practice complies with procedure and that any associated risks are proactively identified and addressed.

7.2 Non-scheduled areas

In accordance with the Queensland Youth Detention Centres Inspection Charter (the Charter), Inspectors have the flexibility to include inspection focus areas not within the defined or scheduled scope of each quarterly inspection. Further, other non-

scheduled inspections may occur outside the quarterly inspection process. Reasons for this might include:

- areas are considered to be at immediate risk
- approved recommendations from previous inspection reports
- special requests from the Chief Executive or other relevant stakeholders.

7.3 Risk matrix

An Expectation Risk Matrix will be reviewed and updated annually and will set out the inherent risks associated with each focus area for each detention centre. It will identify the various inspection focus areas and the frequency of the inspections required, whether quarterly, biannually, annually or less or more frequently in accordance with the Inspectorate's forward plan.

In developing the Risk Matrix, the Inspectorate will consult relevant internal stakeholders, including the Chief Executive; Assistant Director-General, Statewide Services; Director, Youth Detention Operations; and Centre Directors. External stakeholders such as CCYPCG and the Office of the Queensland Ombudsman will also be consulted. Ultimate responsibility for the Risk Matrix rests with the Inspectorate under authorisation of section 2.2 of the Inspection Charter.

Appendix A: Three non-statutory inspection authorities

As discussed on page 4, the Chief Executive is required to adhere to a number of non-statutory authorities, of which three are detailed below:—

1. United Nations (UN) *Rules for the Protection of Juveniles Deprived of Their Liberty* and the *Standard Minimum Rules for the Administration of Juvenile Justice (Beijing rules)*. Among a variety of UN authorities, these are the most pertinent to the treatment of detained young people. In addition to making specific and detailed provisions for the operation of juvenile detention centres, the *Rules for the Protection of Juveniles Deprived of their Liberty* contain the following regarding the inspection process:

Rule 72: Qualified Inspectors or an equivalent duly constituted authority not belonging to the administration of the facility should be empowered to conduct inspections on a regular basis and to undertake unannounced inspections on their own initiative, and should enjoy full guarantees of independence in the exercise of this function. Inspectors should have unrestricted access to all persons employed by or working in any facility where juveniles are or may be deprived of their liberty, to all juveniles and to all records of such facilities.

Rule 73 [inter alia] every juvenile should have the right to talk in confidence to any inspecting officer.

Rule 74: After completing the inspection, the inspector should be required to submit a report on the findings. The report should include an evaluation of the compliance of the detention facilities with the present rules and relevant provisions of national law, and recommendations regarding any steps considered necessary to ensure compliance with them. Any facts discovered by an inspector that appear to indicate that a violation of legal provisions concerning the rights of juveniles or the operation of a juvenile detention facility has occurred should be communicated to the competent authorities for investigation and prosecution.

The UN *Convention on the Rights of the Child* further highlights the need to consider the views of young people:

Article 12: State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

In this regard, the views of children and young people are relevant in determining potential focus areas for future inspections. These views may be drawn from the work of the other stakeholders, for example, Community Visitor reports and surveys of young people in detention made available by the CCYPCG.

2. The Queensland Government's *Response to the Recommendations of the Commission of Inquiry into Abuse of Children in Queensland Institutions 1999*.
The government's commitment to many of the Forde Inquiry's 42 recommendations provide further authority for the inspection of relevant aspects of contemporary detention centre operations.
3. Recommendations of the *Royal Commission into Aboriginal Deaths in Custody*, which the Royal Commission extended to the treatment of detained young people in Recommendation 167.