

Response to the ICS Report on Use of Force, Separation, Segregation and Confinement

Rec #	Recommendation	Response	Status	Comments
	Legislation and Policy			
1	The Inspector recommends Juvenile Justice consider whether to retain the separate categories of pre-planned, situational or immediate use of force, or whether to use only two categories.	Supported	Underway	Juvenile Justice NSW (JJNSW) will commit to using two categories of uses of force: "planned" and "unplanned", rather than the existing three categories. An "unplanned" use of force is defined as one with no forewarning and no time for any alternatives to its application. This is consistent with the categories adopted by Corrective Services NSW and is an approach which has been endorsed by the NSW Ombudsman in 2017.
2	The Inspector recommends that Juvenile Justice reduces the use of force to move young people.	Supported in principle	Underway	Use of force data indicates that force is currently being appropriately used in accordance with the <i>Children (Detention Centres) Act</i> and for the primary purpose of protecting an officer or another person from harm or preventing self harm. To further strengthen practice, the Government has invested \$1 million in training, including the roll out of de-escalation and negotiation training to all frontline staff to better educate officers on the use of force in a custodial setting.
3	The Inspector recommends that forcible searching of young people should only be conducted on the basis of reasonable suspicion.	Supported	Complete	This recommendation is supported. It is important youth officers retain the power to search a detainee where there is a reasonable suspicion that the person is carrying contraband, or where the search is necessary to maintain the good order, security and discipline of the centre. JJNSW has recently implemented a new search policy to better regulate the searching of detainees by officers.
4	The Inspector recommends that Juvenile Justice finalise the draft memorandum of understanding with the NSW Police Force.	Supported	Underway	The Memorandum of Understanding (MoU) is currently being finalised in collaboration with the NSW Police Force. The revised MoU is expected to be complete in early 2019.
5	The Inspector recommends Juvenile Justice review the detainee incentive scheme and consults with young people to improve consistency across centres.	Supported	Underway	The revised detainee incentive scheme will be implemented in 2019 as part of an ongoing Behaviour Management Improvement Project.

6	The Inspector recommends Juvenile Justice have regard to the lessons learned from the Chisholm Behaviour Program in developing future programs and policies.	Supported	Complete	While the Chisholm Behaviour Program was closed over two years ago, the Government commenced significant reform in 2016 including \$1 million in training, additional caseworkers, an overhaul to the existing CCTV systems across all six centres, and other infrastructure upgrades. Further, detainees engaging in high risk behaviour are now managed through Detainee Risk Management Plans (DRMP) under clear protocols which include provisions for 6 hours time out of room. All new programs, policies and procedures are implemented with due consideration of past experience and previous practice.
7	The Inspector recommends consideration is given to amending the <i>Children (Detention Centres) Regulation 2015</i> to reflect the Objective Classification System.	Supported	Underway	The <i>Children (Detention Centres) Regulation 2015</i> will be amended to remove reference to "Class A" and "Class B" detainees, which is a reference to the previous classification system.
8	The Inspector recommends that Juvenile Justice conduct a review to ensure consistent safeguards are in place in relation to separation, segregation and confinement.	Supported	Underway	Review is underway.
9	The Inspector recommends Juvenile Justice regularly reviews delegations to ensure they reflect existing legislative and governance arrangements and level of seniority of youth officers authorised to make particular delegations.	Supported	Underway	An update to JJNSW delegations is in progress, in consultation with the Office of General Counsel.
10	The Inspector recommends Juvenile Justice provides copies of records about segregation over 24 hours to the Executive Director of Juvenile Justice.	Supported	Complete	All records about segregation are contained in the JJNSW Client Information Management System (CIMS). The Executive Director of Juvenile Justice has access to this information.
11	The Inspector recommends Juvenile Justice ensures young people placed in separation, segregation and confinement are not routinely handcuffed to, from or during visits or exercise; or required to have non-contact visits; and that decisions to impose such restrictions are based on an individual risk assessment.	Supported in principle	Underway	The Government agrees that restrictions relating to handcuffing and non contact visits should not be imposed universally. However, for the safety and security of staff, handcuffing and non-contact visits are preferred for detainees in separation, segregation and confinement, subject to an individual risk assessment. JJNSW is reviewing the policy and procedure relating to handcuffing.
12	The Inspector recommends Juvenile Justice ensures DRMPs include a requirement for six hours out of room each day; and that young people on separation, segregation or subject to a DRMP spend at least six hours out of their room each day, including access to an outdoor area and physical activity for at least one hour each day, and that decisions to limit time out of room are based on an individual risk assessment.	Supported	Complete	This recommendation has already been actioned and implemented. New DRMP procedures and standards mandate a six hour minimum time out of room requirement. Operational DRMP practice workshops have been conducted for frontline staff at each centre in 2017/18. However, JJNSW youth officers are not expected to impose minimum out of room times if it compromises the safety, security or good order of the centre.
13	The Inspector recommends that Juvenile Justice review the policy and procedure in relation to the use of force, protective equipment, and instruments of restraint and the policy and procedure in relation to DRMPs to ensure consistency with legislation.	Supported	Underway	Review is underway.

14	The Inspector recommends Juvenile Justice should not carry out strip searching on a routine basis and should replace this practice with a rigorous risk-based assessment process to target the trafficking of contraband.	Supported	Complete	Partially clothed body searches must only be conducted routinely for new admissions from community settings and following leave. A risk based approach to searches in all other situations is required.
Culture and Practice				
15	The Inspector recommends Juvenile Justice develops an organisational framework which is evidence based, trauma informed, and consistent with being a child-safe and culturally competent organisation.	Supported	Underway	JJNSW is in the final stages of developing a contemporary practice handbook. This will guide evidence-based practice with all detainees. In 2017, the Government introduced additional caseworkers to enhance organisational capacity to deliver evidence based case management across the community and custody.
16	The Inspector recommends Juvenile Justice and JH&FMHN conduct a review of the management of young people who are in engaging in or threatening self-harm with input from an expert in forensic mental health.	Supported	Underway	JJNSW works closely with the Justice Health and Forensic Mental Health Network to ensure the wellbeing of all young people in custody. JJNSW is currently analysing trends and issues associated with self-harm. This analysis will inform an internal project already underway to review and update statewide self-harm and suicide policy, practice and training. Each centre is also preparing immediate strategies to address and manage instances of self-harm.
17	The Inspector recommends that young people are not confined for using bad language that is not abusive or threatening.	Noted	N/A	Youth officers should not have to tolerate bad language. JJNSW considers it appropriate to set a standard of respectful conduct within centres. Misbehaviours can be addressed in a number of ways, including additional chores and/or restrictions from leisure activities. The NSW Government has invested \$1 million in training to build youth officers' skills and capabilities to deal with misbehaviours, including using de-escalation tactics and negotiation strategies rather than confinement.
18	The Inspector recommends that Juvenile Justice reduces the use of confinement as punishment.	Supported in principle	Underway	Confinement is a tool that is heavily regulated by the <i>Children (Detention Centres) Act 1987</i> and enables frontline staff to deal with serious misbehaviours in an appropriate way. The Government has invested \$1 million in training to ensure youth officers are armed with de-escalation tactics and negotiation skills, with the aim of reducing, through de-escalation, instances of serious misbehaviour that require use of confinement as punishment. Importantly, a detainee can be taken out of confinement earlier than anticipated following a review of the detainee's confinement and individual risk.

19	The Inspector recommends Juvenile Justice ensures young people are confined or segregated in their room whenever possible, subject to an individual risk assessment; to avoid having to wake young people at night to return them to their room.	Supported	Underway	Implementation is underway. At some centres, officers already aim to keep detainees on confinement and segregation in their own rooms. A detainee will generally only be moved out of their rooms and into holding rooms if they are being disruptive, damaging their own room or disturbing other detainees. Further, holding rooms are generally equivalent to a detainee's room in terms of size, lighting, bed, bathroom and most have a TV and radio.
20	The Inspector recommends Juvenile Justice ensure that wherever possible, subject to an individual risk assessment, young people on separation or segregation are permitted to eat outside of their room.	Supported	Underway	A detainee will only be permitted outside of their room if the detainee does not pose an unacceptable risk to themselves, staff or other detainees in the centre.
21	The Inspector recommends Juvenile Justice regularly reviews the meals available for at risk young people to ensure they meet nutritional standards; and investigate the provision of cutlery that is not able to be used for self-harm.	Supported	Underway	JJNSW has commenced a review of meal menus, including meals provided while detainees are subject to a DRMP. Paper cutlery prototypes are currently being considered.
22	The Inspector recommends Juvenile Justice review the amount and range of items and activities, including watching television that are provided to young people placed in separation, segregation and confinement, in consultation with young people.	Supported	Underway	A detainee will generally only be moved out of their rooms and into holding rooms if they are being disruptive, damaging their own room or disturbing other detainees. JJNSW is committed to ensuring a detainee is engaged in more than one meaningful or useful activity in circumstances where the detainee is placed in a holding room.
23	The Inspector recommends Juvenile Justice works with the Department of Education to ensure that young people in separation, segregation and confinement are provided with educational lessons or materials; and any decisions to exclude young people from school are reviewed regularly.	Supported	Underway	This work is underway.
24	The Inspector recommends Juvenile Justice provides programs and activities as part of the implementation of a structured day, particularly in school holidays.	Supported	Underway	JJNSW is currently working on standardising routines across units and centres. This project includes structuring a menu of purposeful activities able to be offered in all centres throughout the day, including weekends, public holidays and school holidays
25	The Inspector recommends Juvenile Justice considers whether and how young people in separation, segregation, and confinement may be provided with programs in a modified format, or with program material.	Supported	Underway	This work is underway.
26	The Inspector recommends Juvenile Justice reviews decisions to exclude young people from programs regularly.	Supported	Complete	Regular exclusion reviews already occur as part of the normal DRMP review processes within juvenile justice centres which apply a "least restrictive practice" approach to detainee risk management.
27	The Inspector recommends Juvenile Justice reviews centre routines with a view to reducing routine lockdown periods, and increasing the hours that young people spend out of their room each day.	Supported	Underway	JJNSW is currently working on standardising routines across units and centres. This project includes implementing consistent standards for lockdown periods and structuring a menu of purposeful activities able to be offered in all centres throughout the day.

28	The Inspector recommends Juvenile Justice decommissions or refurbishes the Uralba, Taralga, and Tandarra units which were used for the Chisholm Behaviour Program.	Noted	N/A	There are no plans to refurbish or decommission the Uralba, Taralga, and Tandarra units at this stage. However, the Government is constantly monitoring the infrastructure needs of JJNSW to ensure they are appropriate to manage all detainees in accordance with required standards.
Staff Recruitment and Training				
29	The Inspector recommends Juvenile Justice outlines and monitors the type and frequency of training permanent and casual staff are expected to complete, as well as the requisite skills and qualifications of trainers.	Supported	Underway	In 2017/18, an ambitious program of training was implemented for all frontline custodial staff including Radicalisation and Extremism Awareness Program (REAP) training, de-escalation and negotiation strategies and protective tactics. Key JJNSW training officers renewed their training accreditation in October 2018. JJNSW is now developing a training framework that specifies mandatory training and refresher schedules.
30	The Inspector recommends Juvenile Justice should record the training undertaken by youth officers and ensure refresher training is undertaken as required.	Supported	Complete	In 2017/18, an ambitious program of training was implemented for all frontline custodial staff including REAP training, de-escalation and negotiation strategies and protective tactics. JJNSW also implemented a new online Learning Management System in April 2018. This system enables recording and tracking of all training undertaken by staff in an online and user friendly system.
31	The Inspector recommends Juvenile Justice reviews its training in protective tactics to provide guidance about the circumstances when force or restraints may be used and best practice in using force and restraint on young people, including when young people are located in elevated positions, non-compliant, or when moving a young person who is non-compliant.	Supported	Underway	This review is underway.
32	The Inspector recommends Juvenile Justice considers whether additional measures need to be put in place to mitigate the risk of injuries to staff occurring when force is used.	Supported	Underway	This review is underway.
33	The Inspector recommends that Juvenile Justice provides training to youth officers about the circumstances in which a young person's room should be entered for the safety of staff and young people.	Supported	Underway	This training will be incorporated in the Induction Training and Assessment Program by mid 2019.
34	The Inspector recommends Juvenile Justice provides training to youth officers about the use of handheld video camera.	Supported	Underway	Review of the use of handheld video cameras is underway.
35	The Inspector recommends Juvenile Justice develops guidelines in relation to how to use footage for training purposes.	Supported	Underway	This work is underway.
36	The Inspector recommends Juvenile Justice reviews the use and practice of debriefs for staff and young people.	Supported	Complete	JJNSW implemented an updated incident management, recording, review and debrief policy in July 2018. This includes the use and practice of debriefs.
37	The Inspector recommends Juvenile Justice ensure all youth officers receive comprehensive and ongoing training about trauma informed practice; managing challenging behaviours; effective communication and negotiation; effective conflict management; including de-escalation techniques; and incident management, including non-violent crisis intervention.	Supported	Underway	JJNSW has significantly enhanced training and capability building over the last two years, particularly to skill frontline staff in understanding and managing challenging behaviour. This will be consolidated into the updated training framework which includes mandatory training and refresher schedules.

38	The Inspector recommends Juvenile Justice reviews the role descriptions and recruitment processes for youth officers to attract suitably qualified and skilled youth officers to work with young people.	Supported	Complete	JJNSW has already updated the Youth Officer role description and recruitment processes, and all existing Youth Officers were transitioned onto the new role description.
39	The Inspector recommends Juvenile Justice provides training in report writing to ensure all relevant information is accurate and documented and training to reviewing officers to ensure reports are accurate, and how to identify breaches of legislation and policy; and identify areas of good practice and areas of concern.	Supported	Underway	An online training module was released in October 2018 and is currently being completed by all relevant staff.
40	The Inspector recommends Juvenile Justice provides training to staff in relation to the circumstances in which young people may be criminally charged.	Supported	Underway	This work is underway.
41	The Inspector recommends Juvenile Justice provides training on the difference between separation, segregation and confinement and the circumstances in which a young person should be segregated on the basis of an individual risk assessment.	Supported	Underway	The current Induction Training and Assessment program addresses this issue. Further work is underway.
42	The Inspector recommends Juvenile Justice provides training to youth officers about the importance of making decisions in accordance with their delegated authority.	Supported	Underway	An update to JJNSW delegations is in progress, in consultation with the Office of General Counsel.
43	The Inspector recommends Juvenile Justice provides training to staff about when, why and how to conduct reviews of confinement.	Supported	Underway	This training is currently being developed.
44	The Inspector recommends Juvenile Justice provides training to staff on the impact of separation, segregation and confinement on Aboriginal young people.	Supported	Underway	This training is currently being developed.
45	The Inspector recommends Juvenile Justice provide training to officers about the circumstances in which a young person should be placed in a dignity gown to prevent self-harm; and allowing a young person to place the dignity gown on themselves, wherever practicable.	Supported	Underway	JJNSW has commenced an internal project to review statewide self-harm and suicide policy, practice and training. Each centre is also reviewing local strategies to address and manage self-harm.
46	The Inspector recommends Juvenile Justice provides training about the circumstances in which a search involving the removal of clothing may occur and best practice processes for conducting these searches.	Supported	Complete	A revised searching policy was implemented in October 2018. The relevant induction training package has been amended to reflect this new policy
Monitoring and Reporting				
47	The Inspector recommends that Juvenile Justice review the type, number and content of reports to be completed following use of force; who is authorised to review and approve incident and use of force reports; and the role of different approving officers.	Supported	Underway	Review is underway.
48	The Inspector recommends that Juvenile Justice records, monitors, and analyses data about use of force to identify anomalies, gaps and trends, and establishes a system for auditing incidents where force is used to ensure that concerns about practice, reporting and reviews are identified.	Supported	Underway	Work is underway.
49	The Inspector recommends Juvenile Justice implement a system to record the use of restraints and analyse when, how and why individual young people are restrained, and the length of time restraints are applied.	Supported in principle	Underway	JJNSW already has a system to record use of restraints. The additional recording of the length of time restraints are applied may present significant practical challenges. For example, the accuracy of records when restraints are removed and re-applied for very short periods. A process of strengthening analysis of when, how and why restraints are used is accepted.

50	The Inspector recommends that Juvenile Justice records, monitors, and analyses the hours that young people spend in separation, segregation, or confinement or a combination of orders to identify anomalies, gaps and trends; and establishes a system for auditing the use of separation, segregation, or confinement to ensure that concerns about practice, reporting and reviews are identified.	Supported	Underway	JJNSW already records the hours spent by a detainee in separation, segregation or confinement. Further work relating to the analysis of this data is underway.
Accountability				
51	The Inspector recommends that Juvenile Justice notifies JH&FMHN of every young person who is subject to a pre-planned, situational or immediate use of force.	Supported	Underway	JH&FMHN supports this recommendation. There are existing procedures governing this reporting process between JJNSW and JH&FMHN staff, however further work is required to achieve consistent reporting of all use of force incidents.
52	The Inspector recommends JH&FMHN assess every young person who is subject to a pre-planned, situational or immediate use of force as soon as practicable and record whether the young person has sustained injuries or not; and take photographs of any injuries with a young person's consent.	Supported	Underway	Existing JH&FMHN and NSW Health policies outline the role of Justice Health clinicians to assess and document any injuries or harm sustained by young people in custody, including formal reporting requirements to external agencies such as NSW Police and Child and Wellbeing Units. These policies are in line with health staff roles as mandatory reporters. The use of photographs to record injuries will require scoping with JJNSW for practicality.
53	The Inspector recommends JH&FMHN consider extending the hours that nurses are onsite at Juvenile Justice centres.	Supported in principle	Underway	JH&FMHN supports this recommendation in principle, however Justice Health need to undertake further analysis to identify specific health service needs at each juvenile justice centre, and discuss resourcing and workforce needs.
54	The Inspector recommends that Juvenile Justice notifies a parent, carer, or other appropriate adult following a use of force against a young person if the young person is injured or there is a related investigation.	Supported in principle	Underway	JJNSW already notifies parents or carers of any incident which may have resulted in the injury of a detainee. Further work on notifications following a use of force is underway.
55	The Inspector recommends Juvenile Justice ensures that during investigations child complainants and witnesses are interviewed and provided with an appropriate support person; and advised of the outcome.	Supported	Complete	Current practice is to seek an interview with any young person who may provide information relating to an incident (as an alleged victim or witness). This is in addition to any initial statement made i.e. detainee complaint form, that alerts the agency to a possible incident. Detainees being interviewed are offered a support person to be present along with other safeguards and support.
56	The Inspector recommends Juvenile Justice provides information to staff about the role of the Ethics & Professional Standards Unit; the circumstances in which investigations will be conducted; the process that will be followed during an investigation; and support staff will receive during an investigation.	Supported	Complete	In 2017, staff from the Ethics & Professional Standards Unit visited each juvenile justice centre to explain the investigation process to staff and answer any related questions. The investigation process has also evolved to improve perceptions of procedural fairness, shorten the length of time taken for investigations where possible, and ensure appropriate support is offered to staff.

57	The Inspector recommends Juvenile Justice work with the Department of Justice, Professional Conduct Committee to review its terms of reference to include identification of practice issues or systemic issues.	Supported	Complete	The Professional Conduct Committee's terms of reference have been reviewed and updated. This includes the identification of practice and systemic issues.
58	The Inspector recommends Juvenile Justice notifies the NSW Ombudsman if a young person is placed in separation, segregation, or confinement or a combination of orders that results in a young person being removed from the centre routine or alone in a room for over 24 hours.	Supported	Complete	The NSW Ombudsman already has access to JJNSW's central electronic recording system, CIMS, that contains clear records and is easily accessible. The NSW Ombudsman is also notified of any periods of separation or segregation that extend beyond 24 hours.
59	The Inspector recommends Juvenile Justice works with the NSW Ombudsman to develop a system of notification of pre-planned use of force of young people and strip searching of young people.	Supported	Complete	The NSW Ombudsman already has access to JJNSW's central electronic recording system, CIMS, that contains clear records and is easily accessible.
	Report			
60	The Inspector recommends that, in accordance with section 16(2) of the Inspector of Custodial Services Act 2012, this report be made public immediately upon being tabled in NSW Parliament.	Supported	Complete	Noted.