CVP
NT Community Visitor Program

PUBLIC SUBMISSION TO THE ROYAL COMMISSION INTO THE PROTECTION AND DETENTION OF CHILDREN IN THE NT

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Executive Summary

This submission to the Royal Commission into the Protection and Detention of Children in the NT ('Royal Commission') provides relevant information about the operation of independent visiting service in health facilities. It summarises public commentary by the Community Visitor Program (CVP) on youth mental health services in the Northern Territory, including forensic mental health services for youth detainees. In conclusion, it recommends an approach to strengthening mental health services and oversight for youth detainees in NT.

The official visiting service of the CVP protects and promotes the rights of persons who are treated in health facilities, including those being involuntarily detained. The role and powers of the CVP as an independent visiting service to health facilities are well established in the NT.

Legislation establishing the CVP provides broad powers to visit facilities, talk with residents, respond to enquiries and complaints, inspect facilities, review documents and report to the Minister. The CVP is an important part of the relevant health service's continuous improvement processes but strongly maintains its independence.

The CVP is a professional service, operating according to established values and procedures. The CVP ensures that its service is provided by skilled professionals, who are culturally safe and focused on the needs of clients. The service is responsive to the needs of clients in facilities and ensures, as much as possible, interpreters are used in its work.

The CVP has advocated for ten years for a framework for youth mental health services in the Northern Territory. In 2016, this objective was realised. A dedicated youth in-patient facility also opened in Darwin. The CVP provides visiting services to this facility. If youth are held in the adult in-patient units, and if restrictive practices such as seclusion or restraint are used, the CVP closely monitors these practices.

The CVP has recently commented in more depth on the provision of community-based and acute mental health services to children and youth in the Northern Territory. In the CVP's view, there is considerable need for expanded early intervention services in the community. There is also an urgent need for comprehensive mental health services for youth detainees, which is an acknowledged gap in services.

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Introduction

The NT Community Visitor Program (CVP) is a legislative mechanism to protect the legal and human rights of people receiving mental health, disability and alcohol mandatory treatment services in the Northern Territory.[1] The CVP was established in 2001. The CVP visits health facilities regularly, assisting any clients (children or adults) with complaints or enquiries, reviewing documentation as required and liaising with staff.

The work of the CVP is relevant to the Royal Commission as it relates to its inquiries into:

- early intervention options and pathways for children at risk;
- access for youth detainees to appropriate psychiatric care; and
- consideration of law reform options.[2]

The main area of CVP work that relates to the areas of inquiry of the Royal Commission is in the field of mental health. In this work, the CVP's legislative role covers any person, including children, receiving psychiatric care from the NT mental health services (including if they are admitted to an in-patient unit).

Community Visitors often talk with youth, and occasionally youth detainees, as part of their visits to in-patient units. The CVP also conducts inspections of 'community-based' mental health teams. These include the forensic, and child and youth mental health teams.

This submission is based on information provided to the NT Government through the CVP's annual reports. The annual report is the only public document that details the work of the CVP.

The CVP is independent of the services it oversights, and values this independence highly. The majority of the work, however, is done directly with services at the lowest level. This benefits clients by working towards resolution as quickly as possible. This approach also ensures that the work of the CVP is part of continuous improvement process within services.

The legislative powers and functions of the CVP, however, maintain the CVP's independence and provide a strong foundation upon which to raise any issues of concern.

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[1] The program is formally established under the *Mental Health and Related Services Act* (Part 14), the *Disability Services Act* (Part 6) and the *Alcohol Mandatory Treatment Act* (the AMT Act) (Part 5, Division 2).
[2] Royal Commission into the Protection and Detention of Juveniles in the Northern Territory, Letters Patent, inquiry powers (g) – (i).

Overview of CVP

The CVP is one of the systemic 'checks and balances' for health services, including in facilities providing involuntary treatment. The CVP works individually and systemically to ensure that the standard of the services provided under the relevant Acts is of a high quality and that people's rights are protected. The monitoring and inspection role of the CVP is one way in which the services are accountable to a third party.

The Principal Community Visitor has overall responsibility for the CVP. The Principal Community Visitor role is established under each of the relevant Acts. In practice, the Principal Community Visitor is a function assigned to the Anti-Discrimination Commissioner. This brings the work of the CVP under the auspices of the Anti-Discrimination Commission (ADC), an independent statutory body.

The work of the CVP is enabled in the following ways:

- Community Visitors – who visit relevant facilities on a regular (usually weekly) basis, resolve enquiries and complaints from people receiving services or other interested parties, liaise with staff, and prepare quarterly reports to each service; and

- Community Visitors Panels (CV Panels) – who are comprised of three individuals (a medical practitioner or registered health practitioner, a legal practitioner and a community member with an interest and experience in the relevant field), who visit at least once every six months, or if specifically requested, and prepare a report to the service after the visit.

All Community Visitors and CV Panel Members are appointed by the Minister for Health for a three-year term. The CVP has a small permanent staff of appointed Community Visitors, and uses 'sessional' Community Visitors as required.

Community Visitors

Community Visitors focus their work on assisting people in facilities (or those who receive mental health services in the community). Broader issues, however, are raised in their regular reporting and liaison with services.

If a person asks to see the Community Visitor, by law, the CVP has to make contact with the person by the end of the next working day. A Community Visitor may visit a

relevant facility at any time, including without notice. By law, staff are required to provide reasonable cooperation and assistance.

The Community Visitor will seek to address any issue at the lowest possible level. If a matter is urgent or important, the person-in-charge will be contacted as soon as possible. In addition to providing an independent advocacy complaints service, the Community Visitors may help a person make a complaint using internal complaints processes, or by accessing external complaints bodies such as the Health and Community Services Complaints Commission (HCSCC).

CV Panels

The work of CV Panel members is more systemic in nature. The legislative scope of their enquiries are into matters such as opportunities and facilities for recreation and rehabilitation, the application of the 'least restrictive alternative' principle, the quality of treatment and care, and the adequacy of information provided about complaints and legal rights.

Panels visit less frequently, however the Panels provide considerable strength and diversity of opinion to the reporting of the CVP. The more systemic nature of their commentary, and the mixed composition of Panel members, provides a useful picture of services that can differ from the perspective of Community Visitors.

If requested by the Principal Community Visitor, or the Minister for Health, a Panel may be constituted for a special purpose or review. This provides a mechanism for the CVP to oversight critical incidents or any systemic failures that warrant further investigation.

CVP Operational Framework

The following commentary is provided for the Royal Commission in the context of considering the operation of independent visiting schemes for vulnerable people, including those in involuntary detention.

Values and Approach

The CVP's professional values are respect, empowerment, courage, independence and integrity. These values underpin the work of all Community Visitors, CV Panel members and the Principal Community Visitor.

Due to the inherent nature of the work, the independent role of the CVP can lead to tensions with services. The CVP has a strong commitment to courageously and openly

raising issues of concern. At the same time, the CVP respects the role of the services and seeks to promote a positive relationship between staff and people in facilities.

While the role may not always be easy, the CVP is firmly of the view that maintaining a strong voice, and advocating for vulnerable people, is an important part of a robust continuous improvement approach to services.

The value of having a visiting service for vulnerable people in facilities is clear. In 2015-2016, 75% of the cases (enquiries and complaints) raised with Community Visitors were made in person or during a visit.

The visiting service assists people to raise issues of concern by making contact directly with them in facilities. In the Community Visitors' experience, this is particularly important for vulnerable people, such as those for whom English is not their first language, who may feel disempowered or uncomfortable to call a 1800 number or make a written complaint.

Professional Workforce

The CVP staff who regularly conduct visits are all professionally qualified, mostly from a social work background. Some staff have had legal, psychology or other human services qualifications. Sessional Community Visitors are selected based on their skills, experience, qualifications and personal attributes.

The CVP has a strong focus on ensuring that there is a diversity of Community Visitors available, including people who are Indigenous Australians. This ensures that, as much as possible, people in facilities will have someone to speak to with whom they feel comfortable.

The CVP has maintained this attentiveness to culturally safe practice, both in its systemic advocacy over many years and in its own practice. CVP staff and (where possible) sessional Community Visitors receive appropriate training for the role, in particular training in working with interpreters of the Aboriginal Interpreter Service.

The CVP places a high value on ensuring that interpreters are booked for all visits. If there is any doubt, the CVP will book interpreters to ensure that people in facilities have the greatest opportunity to communicate in their preferred language. The CVP has a record of consistently high use of interpreters.

In the past year, the CVP has continued to professionalise the work of the program. Further training has been provided to all CVP staff working in mental health specifically related to youth mental health. This was provided in response to an identified

professional need, and the expansion of the youth mental health in-patient services in the NT. CVP staff who regularly visit facilities receive monthly external supervision with a qualified supervisor experienced in official visiting functions.

The focus of the work in facilities is to seek to resolve issues at the lowest possible level. Consistent with this, a number of CVP staff are accredited mediators. While the role is not one of mediation, this training provides relevant skills to help all parties to address issues in an open and transparent manner.

Frameworks for Practice

The CVP values strong, robust relationships with service providers. In order to provide a clear framework for the work, working agreements or practices are established consistent with the legislative scope of the CVP. Regular meetings are held with senior management to raise issues of concern that cannot be addressed directly with staff.

In the mental health field, the work of the CVP is also guided by Approved Procedures. The Mental Health Approved Procedures provide clear guidance about what is expected in facilities to operationalise the *Mental Health and Related Services Act*.

The Approved Procedures clarify legal rights and processes to ensure these are upheld. It also establishes expected standards of service, such as information that is required to be provided to people in facilities and engagement with their family members.

The Approved Procedures include a section relating to the legislative function of the CVP. It includes expectations of staff in relation to engagement with Community Visitors and CV Panels and timeframes for responding to reports.

Systemic Advocacy

The advocacy function of the CVP also extends to systemic issues. If matters raised by people in facilities, or observed during visits and inspections, are of concern these are included in the quarterly report to services. These matters will be raised as action items. If insufficient action is taken, the action items may be escalated to formal recommendations.

The CVP is required to provide an annual report to the Minister for Health, which must then be tabled in the NT Parliament. The report identifies issues of concern at a Territory-wide level and any progress (if applicable) towards those issues.

Serious issues of a systemic nature are highlighted each year in the CVP's annual report. The report also lists all formal recommendations that have been made and are

not resolved. The yearly reporting requirement ensures that the work of the CVP is both accountable and transparent, at the highest level.

The CVP strives to ensure that the issues raised are a fair representation of the matters of concern. The data gathered from the cases raised by people in facilities directly informs the issues raised. The reports of Community Visitors and CV Panels also inform the preparation of the annual report.

CVP Commentary on Youth Mental Health (NT)

With respect to this, the CVP has advocated for many years for improved mental health services for children and youth, including more recently for youth detainees, in the Northern Territory. This advocacy work is detailed in the remainder of this submission.

Youth-Specific Framework

In 2004-2005, the CV Panel for the Top End mental health in-patient facility first noted the need for a framework for the development of mental health services for young people in the Northern Territory, including the need for more options for acute care.[3] The CV Panel made a recommendation to this effect.

In 2011-2012, the Panel requested that the Principal Community Visitor raise the lack of action on this recommendation with the Chief Executive of the Department of Health. This action is available to the CV Panel under section 112 of the *Mental Health and Related Services Act*. This was not actioned at the time, with the CVP choosing to keep the focus on the need for cultural safety as a priority area for improvement.[4]

In 2014-2015, however, the CV Panel again requested that the Principal Community Visitor raise the issue with the Chief Executive of the Department of Health. This was done by the Principal Community Visitor. The CVP was advised by the end of that financial year that the Top End Health Service was working towards a youth-specific framework. The CVP was also advised that additional funding had been secured for a youth in-patient program in Darwin.[5]

In the most recent annual report, the CVP acknowledged the positive developments in the provision of youth services.[6] While it is not possible to draw a direct link between the

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[3] Community Visitor Program, NT, *Annual Report 2004-2005*, p 15. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0004/189598/Annual-Report-2004-05.pdf
[4] Community Visitor Program, NT, *Annual Report 2011-2012*, p 63. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0006/189591/Annual-Report-2011-12.pdf
[5] Community Visitor Program, NT, *Annual Report 2014-2015*, pp 19-20. Accessible at https://cvp.nt.gov.au/__data/assets/pdf_file/0003/228180/CVP_Annual-Report_FINAL.pdf
[6] Community Visitor Program, NT, *Annual Report 2015-2016*, pp 13-15 (attached).

CVP's sustained advocacy and the recent expansion of youth services, the CVP is pleased to see some significant steps forward in this area. The need for an overarching framework for youth mental health services in the Northern Territory cannot be understated.

Services in the Community

While the expansion of youth-specific services for the Top End is pleasing, the CVP continues to have ongoing concerns in relation to early intervention services for youth in the Northern Territory in general.

In 2014-2015, the CVP noted explicitly concerns about the 'quality and responsiveness of early intervention services provided to young people with mental illness or disorders in the Northern Territory'.[7] These were reiterated in the most recent annual report, with particular attention also being drawn to the lack of youth services in remote communities.[8]

The work of the CVP is primarily through visits to in-patient facilities. However, where resources permit, the Community Visitors undertake inspections of community-based mental health teams. These teams provide mental health services to people living in the community, including specialist teams for children and youth.

Since 2007-2008, the CVP has raised the importance of improving early intervention for youth, in particular, those experiencing signs of early psychosis. In 2011-2012, a recommendation was made to the effect that the Top End Mental Health Service consider implementing an early psychosis service.

In 2012-2013, the CVP noted that while there had been an increase in one position in the child and adolescent team in Katherine, and further staff training in early psychosis, there remained a number of concerns for youth mental health services in the community. In 2015-2016, two additional positions for youth mental health workers in Gove and Tennant Creek were noted by the CVP.

[7] Community Visitor Program, NT, *Annual Report 2014-2015*, p 19. Accessible at https://cvp.nt.gov.au/__data/assets/pdf_file/0003/228180/CVP_Annual-Report_FINAL.pdf
[8] Community Visitor Program, NT, *Annual Report 2015-2016*, pp14-15 (attached).

The CVP has, however, noted that early intervention for children in remote communities is 'almost impossible due to lack of local presence of specialised clinicians'.[9] The lack of even visiting mental health services for youth in remote communities has been recently commented upon.[10] In an urban context, where there are high concentrations of youth, there have been concerns expressed by the CVP about the overall framework for services.[11]

In all reports since 2013-2014, the CVP has advocated at length for improved early intervention services for young people in the Northern Territory. The reports have highlighted, among other things, the high rates of youth suicide in the Northern Territory, the need for improved workforce development, the importance of close liaison with families, and the need for a comprehensive model of care. The imperative for 'an Early Psychosis Team',[12] and the benefits of early intervention to avoid disengagement from education, training and employment opportunities have also been highlighted.[13]

Acute Services

The CVP had noted concerns in the 2006-2007 annual report that a separate environment for young people with acute mental health was required to care for young people adequately. As the CVP has a key role in visiting people detained at mental health in-patient facilities, the focus of CVP advocacy for youth services has also been on addressing the need for separate facilities for youth and adults.

In November 2007, the CV Panel undertook a comprehensive assessment of services for young people, during their visit to the Top End mental health in-patient facility. As a result of that visit, the Panel recommended the urgent development of a 'youth friendly' inpatient service, including access to expert assessment and management.[14]

In 2012, the Top End Mental Health Service opened a 5-bed 'Contained Assessment Unit' which was, as far as possible, to be used for admissions of youth. In that year, the Top End Mental Health Service commenced staffing for a youth worker position for young patients admitted to the in-patient unit.

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[9] Community Visitor Program, NT, *Annual Report 2012-2013*, p 14. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0005/189590/Annual-Report-2012-13.pdf
[10] Community Visitor Program, NT, *Annual Report 2015-2016*, p15 (attached).
[11] Community Visitor Program, NT, *Annual Report 2012-2013*, pp 14-15. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0005/189590/Annual-Report-2012-13.pdf
[12] Community Visitor Program, NT, *Annual Report 2012-2013*, p 15. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0005/189590/Annual-Report-2012-13.pdf
[13] See Community Visitor Program, NT, *Annual Report 2013-2014*, pp 21-23; and Community Visitor Program, NT, *Annual Report 2014-2015*, pp 18-20. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0004/189589/Annual-Report-2013-14.pdf and https://cvp.nt.gov.au/__data/assets/pdf_file/0003/228180/CVP_Annual-Report_FINAL.pdf
[14] Community Visitor Program, NT, *Annual Report 2007-2008*, pp 16 and 49. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0010/189595/Annual-Report-2007-08.pdf

In 2014-2015, however, the CVP commented that despite the CAU being available, it was 'rarely opened and staffed for youth patients' despite it being more appropriate for such patients.[15]

In 2016, the CVP was pleased to see the new Darwin Youth In-Patient Program (YIPP) open at the Royal Darwin Hospital.[16] This is a significant achievement. As it is based in Darwin, it mostly benefits children and youth in the Top End however it is available as an acute option for young people across the Northern Territory.

Use of Restrictive Practices

While admitted to an acute in-patient setting, the mental health services are able to lawfully use restrictive practices such as seclusion or restraint. These provisions can only be applied consistent with the requirements established under the *Mental Health and Related Services Act*.[17] Seclusion and restraint are serious restrictive practices that are not considered to be therapeutic.

The CVP has a legislative role to inspect seclusion and restraint registers at least once every six months.[18] Based on these inspections, the CVP prepares reports on the inspection of the seclusion registers for the service. Any systemic issues may be reported on in the annual report.

In the past three annual reports (since 2013-2014), the CVP has particularly drawn attention to the use of seclusion and restraint with minors and youth in acute care.[19] In those reports, the following key points were noted:

- lengthy periods of seclusion and restraint for a small number of minors;
- the seclusion of a 14 year old;
- the seclusion of a child that went for 7 days;
- the incidence of youth and Indigeneity among people secluded; and
- the relative higher incidence of the use of seclusion for children in Central Australia (evident in the most recent annual report).[20]

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[15] Community Visitor Program, NT, *Annual Report 2013-2014*, p 28. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0004/189589/Annual-Report-2013-14.pdf
[16] Community Visitor Program, NT, *Annual Report 2015-2016*, p15. Copy provided with this submission.
[17] *Mental Health and Related Services Act* (NT), ss 61-62.
[18] *Mental Health and Related Services Act* (NT), ss 61(14) and 62(14).
[19] See Community Visitor Program, NT, *Annual Report 2013-2014*, p 40; and Community Visitor Program, NT, *Annual Report 2014-2015*, p 21. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0004/189589/Annual-Report-2013-14.pdf and https://cvp.nt.gov.au/__data/assets/pdf_file/0003/228180/CVP_Annual-Report_FINAL.pdf
[20] See Community Visitor Program, NT, *Annual Report 2013-2014*, p 40; Community Visitor Program, NT, *Annual Report 2014-2015*, pp 21, 28, 31 and 33; and Community Visitor Program, NT, *Annual Report 2015-2016*, pp22-25 (attached).

In 2014-2015, recommendations were made for both the Top End and Central Australia Health Services in relation to reducing seclusion events of youth. These recommendations remain open. In the CVP's view, 'there should be no seclusion of children in mental health facilities'.[21]

Forensic Youth Mental Health Services

In 2012-2013, the CVP first commented on the absence of youth-specific forensic mental health services. This was identified during an inspection of the Forensic mental health team.[22]

The absence of lack of services for youth detainees, particularly in Central Australia, was noted in the 2013-2014 annual report. That report comments strongly to the effect that mental health services 'for young people in the criminal justice system are almost non-existent'.[23]

In 2014-2015 and 2015-2016, the CVP commented at greater length about the absence of specialist youth forensic mental health services in the Northern Territory. In 2014-2015, the report noted there is a 'significant gap' in services to youth detainees. The lack of continuity in accessing the child and youth mental health teams for youth detainees was also noted as a significant concern. The CVP concluded that the 'gap in youth forensic mental health services presents a considerable risk for the health and wellbeing of youth detainees in the Northern Territory' and needed to be urgently addressed.[24]

In 2015-2016, the CVP noted that there is only a 'basic level' of mental health care, primarily focussed on assessing suicide risk and consultations with the primary health care team in the youth detention centre. Although some recent advice was provided by the Department of Health about 'in reach' services, the CVP cannot assess how this works in practice as this has not been evident in any forensic or youth mental health team inspections. The CVP commented on the need to 'close the gap' in forensic youth mental health services.[25]

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[21] Community Visitor Program, NT, *Annual Report 2015-2016*, p24 (attached).
[22] Community Visitor Program, NT, *Annual Report 2012-2013*, p 14. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0005/189590/Annual-Report-2012-13.pdf
[23] Community Visitor Program, NT, *Annual Report 2013-2014*, p 22. Accessible at: https://cvp.nt.gov.au/__data/assets/pdf_file/0004/189589/Annual-Report-2013-14.pdf
[24] Community Visitor Program, NT, *Annual Report 2014-2015*, p 20. Accessible at https://cvp.nt.gov.au/__data/assets/pdf_file/0003/228180/CVP_Annual-Report_FINAL.pdf
[25] Community Visitor Program, NT, *Annual Report 2015-2016*, p15 (attached).

Way Forward

The CVP has been established and operating in the Northern Territory as an independent advocacy, complaints, visiting and monitoring program since 2001. The legislative framework enabling the work of the CVP provides a useful model for how best to ensure youth detainees in the Northern Territory are protected into the future.

In the CVP's experience, a visiting function that focuses on engaging directly with vulnerable youth in facilities is an essential component of any legislative framework. The independent advocacy and complaints function are, in the main, enlivened through the regular visits of Community Visitors.

The inspection of records and the regular reporting of serious and systemic issues to the person-in-charge of the facility is another important component of the legislative framework. The CV Panel visits, comprised of a multi-disciplinary team, provide another layer of oversight and systemic monitoring that further strengthens this framework.

The CVP commends the current legislative framework of the CVP to the Royal Commission as a potential oversight model to strengthen the protections for youth detainees in the Northern Territory. Furthermore, consideration should be given to whether this oversight sits within the current CVP.

Lastly, the CVP strongly advocates for the Royal Commission to call for an expansion of mental health services for youth detainees in the Northern Territory and a substantial investment in early intervention services.

A robust youth framework for mental health in the Northern Territory is required. It needs to address the gap in youth mental health services for particularly vulnerable children and youth, including those in detention.

Any such framework also must address the need for more early intervention programs for youth in the community. These programs have to be available for young people in urban areas, as well as meet the challenge of expanded service delivery in regional and remote areas of the Northern Territory in a culturally appropriate way.

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28 October 2016

Attachment 1

CVP Annual Report 2015-2016

An electronic copy of the CVP Annual Report 2015-2016 is attached to this submission.

The report was tabled in the Legislative Assembly of the Northern Territory on 27 October 2016.

The CVP's annual reports can also be accessed on the CVP's website at: https://cvp.nt.gov.au/resources/publications.