

Inquiry into the Crimes Amendment (Prohibiting the Strip Searching of Children) Bill 2026

Submission to the Senate Legal and Constitutional
Affairs References Committee

Joint Submission - Australian National Preventive
Mechanism



14 September 2026

Contents

The Australian National Preventive Mechanism	3
Summary of position and recommendation	4
Strip searching as torture and ill treatment	4
Australia's international obligations.....	6
International concern regarding the strip searching of children in Australia	6
Concerns raised by Australian oversight bodies	7
Conclusion	8

Acknowledgment of Country

The Australian National Preventive Mechanism acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, culture and community. We pay our respects to their Elders past and present.

The Australian National Preventive Mechanism

The Australian National Preventive Mechanism (NPM) was established following Australia's ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on 21 December 2017.

OPCAT builds on the Convention Against Torture (CAT), and supports States Parties, including Australia, to meet their obligations under that treaty. CAT prohibits torture and ill-treatment; OPCAT gives that prohibition practical effect by establishing independent bodies – the UN Subcommittee on Prevention of Torture internationally, and NPMs domestically – with authority to examine the legislation, policy and practice governing the treatment of people deprived of their liberty, including through regular visits to places where people may be deprived of liberty.

Article 17 of OPCAT requires every State Party, including Australia, to maintain an NPM, and article 19 sets out the functions such a mechanism must perform: to regularly examine the treatment of persons deprived of their liberty, wherever that deprivation of liberty occurs; to make recommendations to relevant authorities on improving that treatment; and to submit proposals and observations on existing or draft legislation.

The Australian NPM is a multi-body mechanism, comprising independent oversight bodies established under Commonwealth, state and territory laws. Its members are:

- **Commonwealth Ombudsman** – nominated as the Commonwealth NPM, with responsibility for places of detention under Commonwealth control, including Australian Border Force, Australian Federal police and Australian Defence Force detention facilities. The Commonwealth NPM, in addition, undertakes the function of Independent Visitor for Children in Immigration Detention. The Commonwealth Ombudsman also holds the role of NPM Coordinator.
- **ACT NPM** – a three-body mechanism comprising the ACT Office of the Inspector of Custodial Services, the ACT Human Rights Commission and the ACT Ombudsman, jointly nominated to oversee ACT detention facilities including the Alexander Machonocie Centre, Bimberi Youth Justice Centre, the Dhulwa Mental Health Unit, and ACT watch houses and police stations.
- **Northern Territory** – the NT Ombudsman, nominated as interim coordinating NPM; the NT Office of the Children's Commissioner, nominated to oversee youth detention; and the NT Community Visitor Program, nominated to oversee mental health and disability facilities.
- **South Australia** – the Official Visitors, nominated to oversee adult prisons and police cells, and the Training Centre Visitor, nominated to oversee youth training centres.
- **Tasmania** – the Tasmanian NPM, a role held concurrently by the Tasmanian Ombudsman and Custodial Inspector, nominated to oversee places of detention across the state.
- **Western Australia** – the Office of the Inspector of Custodial Services, nominated to oversee justice-related facilities including prisons, youth detention centres and police lockups, and Ombudsman WA, nominated to oversee mental health and other secure facilities.

This submission is presented by the following Australian NPM members:

- Commonwealth NPM, ACT Office of the Inspector of Custodial Services, the ACT Human Rights Commission, the ACT Ombudsman, the South Australia Office of the Guardian for Children and Young People, the Northern Territory Office of the Children's Commissioner, and the Tasmanian NPM.

Summary of position and recommendation

The Australian NPM supports the Bill, which would prohibit the strip searching of Children under 18 in all Australian jurisdictions. Section 90C of the *Crimes Act 1914*, as inserted by the Bill, would apply despite any other law of the Commonwealth, a State or a Territory, and would override inconsistent laws.

Recommendation: The Committee recommend that the Bill be passed.

Strip searching as torture and ill treatment

The prohibition on torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment) is absolute and non-derogable. This means that there are no circumstances in which the right to freedom from torture and ill-treatment can be limited, or in which states can derogate from their responsibilities to refrain from torture and ill-treatment. Treatment falls within that prohibition where it humiliates or debases a person, shows a lack of respect for or diminishes their human dignity, or arouses feelings of fear, anguish or inferiority. Whether particular treatment meets that threshold is assessed relative to all circumstances, including its duration, its physical and mental effects, and the age, sex, and health of the person subjected to it.

The Special Rapporteur on Torture has found that humiliating and invasive body searches may constitute torture or ill-treatment¹. Strip searching engages that prohibition on several grounds:

- **It is inherently humiliating.** Requiring a person to remove their clothing and expose their body to officials is degrading in itself, irrespective of the care with which it is carried out. International jurisprudence treats this humiliation as unavoidable and intrinsic to the practice – it is not a by-product of poor execution that better procedures can eliminate.
- **It involves the exposure and inspection of intimate parts of the body.** Strip searching requires a person to expose intimate areas of their body to officials, and commonly to adopt positions permitting their visual inspection. UN reporting identifies forced nudity and humiliating strip searches among the forms of sexual humiliation experienced in detention, and some Australian scholarship has characterised the practice as sexual assault perpetrated by the state.²

¹ A/HRC/31/57[36]

² A/HRC/31/57, [36]; Amanda George, 'Strip searches: sexual assault by the state' in Without Consent: Confronting Adult Sexual Violence, Australian Institute of Criminology, 1993; Amanda George and Jude McCulloch, 'Naked Power: Strip Searching in Women's Prisons' in Phil Scranton and Jude McCulloch (eds), *The Violence of Incarceration* (Routledge, 2009); Human Rights Law Centre, Flat Out and FIGJAM, *Ending Strip Searches* (March 2026)

- **Its effects are psychological and enduring.** The harm of a strip search is not confined to the period of the search. It is experienced as humiliation, fear and loss of control over one's own body, and is reported by those subjected to it as among the most distressing aspects of detention. For a person who has previously experienced sexual abuse, forced exposure and inspection of the body by officials replicates features of that abuse.
- **It is not necessary and is ineffective.** International standards require that intrusive searches be avoided wherever another method can achieve the same purpose, and that alternatives, such as body scans, be actively developed. Body searches should only ever be a last resort³. The practice is also ineffective: the ACT Healthy Centre Review of Bimberi Youth Justice Centre recorded the low yield of contraband found during strip searches as a basis for recommending the cessation of the practice for young people in detention.⁴

These harms are more acute for children, who are afforded specific protection under international human rights law:

- **Children are a particularly protected group.** The Committee against Torture has consistently identified children in detention as requiring specific protection, and the Convention on the Rights of the Child requires that children deprived of liberty be treated with humanity and respect for their inherent dignity, in a manner that takes account of the needs of their age. A practice that is inherently humiliating, that involves the exposure and inspection of intimate parts of the body, and that is not necessary cannot be reconciled with those requirements.⁵
- **Children are still developing.** A child is less equipped than an adult to withstand the psychological impact of an invasive search conducted without genuine consent. The humiliation the practice inflicts is experienced by a child with fewer means of understanding or contextualising it, and its effects are more likely to be enduring.
- **Children in detention frequently carry prior trauma.** Many children in detention have experienced abuse or maltreatment before entering detention. For these children, the exposure and inspection of intimate parts of the body by an authority figure can reproduce features of that experience, in a setting they cannot leave.
- **In Australia, these harms fall disproportionately on Aboriginal and Torres Strait Islander children.** Comprising approximately 65 per cent of children in detention on an average day, Aboriginal and Torres Strait Islander children made up 56 percent of young people aged 10 and over in detention on an average night in the June quarter of 2025 and were 21 times as likely as non-indigenous people to be in detention.⁶ They are consequently likely to be the children most exposed to practices used in detention, including strip searching, and would be the children most substantially affected by the Bill.

³ Nelson Mandela Rules, r 52; Bangkok Rules, rr 20-21; PRI/APT, Body searches: addressing risk factors to prevent torture and ill-treatment

⁴ ACT Custodial Inspector, *Healthy Centre Review of Bimberi Youth Justice Centre 2024* (December 2024), p.48.

⁵ CRC arts 3, 37[c]

⁶ Australian Institute of Health and Welfare, *Youth detention population in Australia 2025* (December 2025), supplementary tables S1, S11, S18.

Australia's international obligations

Australia has accepted obligations concerning the treatment of children deprived of their liberty. The Bill would give those obligations legislative effect in respect to their strip searching as follows:

- **Convention against Torture** – articles 2 and 16 require Australia to take effective legislative measures to prevent torture and other ill-treatment in any territory under its jurisdiction. The Bill is such a measure.
- **Optional Protocol to the Convention against Torture** – the Bill advances the preventive purpose of OPCAT by removing a practice identified as capable of amounting to ill-treatment, rather than addressing it after harm has occurred.
- **Convention on the Rights of the Child** – article 37(a) prohibits torture and cruel, inhuman or degrading treatment of children. Article 37(c) requires that children deprived of their liberty be treated with humanity and respect for their inherent dignity, in a manner that takes account of the needs of their age. The Bill gives effect to these obligations through prohibiting a practice that carries a high risk of amounting to ill-treatment and addressing the specific needs of children deprived of liberty.
- **International Covenant on Civil and Political Rights** – article 7 prohibits torture and cruel, inhuman or degrading treatment. Article 10 requires that persons deprived of their liberty be treated with humanity and respect for their inherent dignity. The Bill gives effect to these obligations through prohibiting a practice that carries a high risk of amounting to ill-treatment, and protecting some people deprived of liberty from this practice.

Australia's obligations are further elaborated in international standards on the treatment of people in detention. **The Nelson Mandela Rules** provide that searches be conducted in a manner that respects human dignity, that intrusive searches be undertaken only where absolutely necessary, and that alternatives be developed in their place. **The Havana Rules** require that children deprived of their liberty be treated in a manner that respects their dignity and takes account of their age. **The Bangkok Rules** require that alternative screening methods replace intrusive searches wherever possible. The Bill would enhance compliance with these standards through limiting the circumstances in which strip searches can be conducted and addressing the specific needs of children deprived of liberty.

International concern regarding the strip searching of children in Australia

United Nations human rights bodies have consistently raised concerns bearing on this Bill, both in relation to the strip searching of people in detention and in relation to the treatment of children in Australian detention, to which strip searching contributes. Where a finding concerns people in detention generally, it applies with at least equal force to children, for the reasons set out at section 3.

- **UN Committee against Torture (2022)** – In its concluding observations on Australia's sixth periodic report, the Committee expressed concern regarding the

treatment of children in Australian detention. It also expressly recommended that Australia ensure strip searches are not performed routinely.⁷

- **UN Subcommittee on Prevention of Torture (visit 2022, report published 2023)** – Following its visit to Australia under OPCAT, the Subcommittee found that strip searches conducted across Australian detention facilities, considering their regularity and invasiveness, may amount to degrading treatment.⁸
- **UN Committee on the Elimination of Racial Discrimination (2026)** – The Committee invoked its Early Warning and Urgent Action Procedure, a mechanism reserved for serious and time-sensitive situations, to raise concern regarding the detention of Aboriginal and Torres Strait Islander children in Australia and found them to be at heightened risk of ill-treatment. In doing so, the Committee noted the Committee against Torture’s 2022 concluding observations on Australia.⁹

Concerns raised by Australian oversight bodies

Oversight bodies across Australian jurisdictions have examined the strip searching of children in detention and reached consistent conclusions: the practice causes harm, it is ineffective as a security measure, and less intrusive alternatives are available and should be used in its place. Recommendations to that effect have been made repeatedly and implemented only in part:

- **Australian Capital Territory** – The Healthy Centre Review of Bimberi Youth Justice Centre recorded that the ACT Standards for Youth Detention Places were updated in 2024 to recommend the cessation of strip searching for all young people in detention, based on research about the harmful impact of strip searching, the low yield of contraband found during such searches, and the increasing availability of body scanning technology. The Review recommended that any form of body or cavity search involving a child or young person be prevented, that body scanner technology be procured at Bimberi, the ACT Watch House and the ACT court cells, and that the use of strip searches be prohibited.¹⁰
- **New South Wales** – A 2020 report of the New South Wales Inspector of Custodial Services examined searching across six youth justice centres and recommended that routine partially clothed body searches after visits cease, and that body scanners be adopted. Over twelve months, 3939 partially clothed body searches at one centre located 23 contraband items, representing only 0.58 per cent¹¹ of all searches undertaken. Further, a 2021 special report of the NSW Ombudsman found that strip searches of children at Frank Baxter Youth Justice Centre were oppressive, and recommended prohibiting fully naked strip searches of children in detention, requiring searches to use the least intrusive method necessary, and requiring that

⁷ CAT/C/AUS/CO/6, para 32(f)

⁸ CAT/OP/AUS/ROSP/1, paras 58-59

⁹ Committee on the Elimination of Racial Discrimination, *Statement 1 (2026): Overrepresentation of Indigenous children in Australia’s criminal justice system*, Early Warning and Urgent Action Procedure (29 April 2026).

¹⁰ ACT Custodial Inspector, *Healthy Centre Review of Bimberi Youth Justice Centre 2024* (December 2024) p19, p48, Recommendation 10.

¹¹ Inspector of Custodial Services (NSW), *Inspection of Six Youth Justice Centres in NSW* (Report, December 2020).

no more clothing be removed and no more visual inspection occur than reasonably necessary.¹²

- **Northern Territory** - The Royal Commission into Prevention and Detention of Children in the Northern Territory recommended that all Australian governments prohibit routine strip searches of children unless all other options have been exhausted.¹³
- **Queensland** - A 2025 report of the Inspector of Detention Services, which inspects each Queensland youth detention centre annually, focused on personal searches of children and recommended that body scanning devices be installed to eliminate the need for partially clothed searches at all new and existing youth detention centres.¹⁴
- **Tasmania** - In 2022, legislative amendments were introduced to limit the use of strip searches of children and young people. This occurred following significant concerns raised by the Commissioner for Children and Young People and other stakeholders, including that the experience can be humiliating and distressing and has the potential to re-traumatise children who have been sexually abused.¹⁵ The Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings also highlighted serious concerns and found repeated evidence of inappropriate and sexually abusive strip searches of children and young people.¹⁶ However, while strip searches are no longer routinely applied, they may still occur in limited circumstances.
- **Western Australia** - A 2019 review by the Inspector of Custodial Services found that, between 2014 and 2019, 571 items of contraband were located across almost 900,000 strip searches - a detention rate of approximately 0.06 per cent. Facilities that had ceased strip searching had not experienced any increase in contraband.¹⁷

Conclusion

Issues affecting children in detention have been central to the Australian NPM's joint work. We remain concerned about the treatment of children in Australian detention, including through practices which represent risks of ill treatment.

Strip searching of children is such a practice. It is harmful, it is unnecessary, and it has been the subject of consistent recommendations by international and Australian oversight bodies over more than a decade. The Bill would give effect to those recommendations through explicitly prohibiting the strip searching of children in all Australian jurisdictions.

¹² NSW Ombudsman, Strip searches conducted after an incident at Frank Baxter Youth Justice Centre, June 2021

¹³ Royal Commission into Protection and Detention of Children in the Northern Territory, Final Report, 2017, p264

¹⁴ Inspector of Detention Services (QLD), Youth Detention Centres Report, 2025.

¹⁵ Commissioner for Children and Young People Tasmania, 2019, *Memorandum of Advice: Searches of Children and Young People in Custodial Facilities in Tasmania*. Page 3 See: <https://childcomm.tas.gov.au/uploads/2023/07/2019-05-06-amended-FINAL-Advice-to-Ministers-Searches-of-children-and-young-people-in-custody-in-custodial-facilities.pdf>

¹⁶ Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, 2023, Final Report, Vol 5, Chapter 11, Page 59. See: https://www.commissionofinquiry.tas.gov.au/data/assets/file/0011/724439/COI_Full-Report.pdf

¹⁷ WA Inspector of Custodial Services, Strip searching practices in Western Australian prisons, March 2019.

The Australian NPM notes that the overwhelming majority of children deprived of liberty in Australia are held under state and territory law. The Bill would establish a national prohibition applying to those children, as well as to children in immigration detention.

The Australian NPM supports the Bill and encourages the Committee to recommend that it be passed.

This joint submission has been endorsed by, and is issued on behalf of, the Australian National Preventive Mechanism members whose logos appear below.

