

# **Monitoring places of detention under the Optional Protocol to the Convention against Torture**

Annual Report of the Australian  
National Preventive Mechanism



**1 July 2023**

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**30 June 2024**

## **Acknowledgement of Country**

The Australian National Preventive Mechanism (NPM) acknowledges the Aboriginal and Torres Strait Islander peoples throughout Australia and the Traditional Custodians of the lands across which we conduct our business.

We pay our respects to the custodians of the lands on which we work as well as their ancestors and Elders, past and present.

The Australian NPM is committed to honouring Australian Aboriginal and Torres Strait Islander peoples' unique cultural and spiritual relationships to the land, waters and seas, and their rich contribution to society.

## **Content warning for Aboriginal and/or Torres Strait Islander people**

A warning for Aboriginal and/or Torres Strait Islander people that the name of a deceased Aboriginal person is included in this report.

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# Foreword

## Secretary General of the Association for the Prevention of Torture (APT)

### Nicole Hogg



2024 marked the 40th anniversary of the United Nations Convention against Torture (UNCAT). This anniversary serves as a powerful reminder of the international community's commitment to eradicating torture and ill-treatment. It also invites us to reflect on the enormous progress made and the challenges that remain in the prevention of torture around the world.

In this context, and as the new Secretary General of the Association for the Prevention of Torture (APT), having taken office in September 2024, I am honoured to

contribute to the second annual report of the Australian National Preventive Mechanism (NPM). I also wish to congratulate the different mechanisms at state, territory and federal levels for the advances they have made in implementing the Optional Protocol to the Convention against Torture (OPCAT). The NPM's new strategic plan has a clear vision and mission that will serve to guide the network in the years ahead. Its focus on youth detention and healthcare in detention as priorities should also encourage positive developments in these important areas of work.

Australia's role in the global movement to prevent torture extends beyond its borders. For example, the Australian NPM's contribution to the APT global report on women deprived of liberty has enriched our understanding of the systemic risks faced by women in detention and underscored the importance of inclusive and nuanced approaches to preventive monitoring. In particular, the Australian NPM's data on the inefficacy of the humiliating practice of strip-searches, and its highlighting of the experience of trans, gender diverse and intersex people in custody, enhanced our global findings on these important issues.

While the Australian NPM has made important progress, including by working across the nation on key thematic issues such as youth justice, overincarceration and the use of isolation, this report also highlights persistent challenges in OPCAT

implementation in Australia: incomplete membership, legislative gaps, and insufficient resourcing. These issues are not unique to Australia, but the Australian experience provides critical lessons for the Asia-Pacific region and for federal states globally. As one of the few established NPMs in the region and one of the few multiple body NPMs in federal states around the world, Australia has the potential to inspire and support others in their journeys to establish and strengthen NPMs. The learning and expertise developed through Australia's implementation process can serve as a valuable resource for others seeking to fulfil their OPCAT obligations. It is in this light that we encourage the Australian government to take the necessary steps to fully establish and resource independent NPMs in all states and territories.

I look to a future where more states ratify the OPCAT, establish robust and effective NPMs, and work together to ensure the rights and dignity of all persons deprived of liberty. The Australian NPM is contributing to the fulfilment of this goal with its commitment to building a cohesive, collective body, its focus on tackling systemic issues and its strong dedication to collaboration with others.

As we commemorate the 40th anniversary of UNCAT, let us recommit to its principles and the vision of a world free from torture and ill-treatment. I congratulate the Australian NPM on its achievements and look forward to continuing to work together.

**Nicole Hogg**  
**Secretary General**  
**Association for the Prevention of Torture**

# Executive summary

This is our second annual report as the Australian National Preventive Mechanism (NPM), under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). This report provides an overview of the work of the Australian NPM in 2023–24 and a discussion of several key issues that have been the focus of our work.

During this period, the Australian NPM has continued to focus on working together on key issues in places of detention, created a strategic focus for our future work, and built strong relationships between NPMs. This has enabled us to move further towards a common identity as a collective Australian NPM, focused on improving treatment and conditions for people deprived of their liberty.

In our inaugural 2022–23 Annual Report, we outlined the significant challenges facing OPCAT implementation in Australia, including resourcing constraints, the absence of appropriate legislation and unresolved funding disputes between the Australian, state and territory governments. Although the 2023–24 period has seen small progress in some jurisdictions, the overarching challenges persist.

Membership of the Australian NPM is still incomplete, legislative powers and protections for both NPMs and visits from the United Nations Subcommittee on Prevention of Torture (SPT) are a patchwork, and no members have been adequately resourced to enable us to meet the full OPCAT mandate for all places of deprivation of liberty.

This report provides a snapshot of some of the many complex issues arising in places of detention that NPMs across Australia have observed, including serious concerns in youth justice settings, overincarceration of Aboriginal and/or Torres Strait Islander people, the use of isolation, facility population pressures, staffing difficulties and poor data collection and recordkeeping.

As members of the Australian NPM we remain committed to OPCAT’s objectives, and the need for independent domestic monitoring bodies to achieve them. But until implementation gaps are met, we cannot fully discharge the enormous potential which OPCAT’s system of visits envisages, towards improving treatment and conditions in detention, and the prevention of torture and other ill treatment in those places.

# Update on the status of OPCAT in Australia

## Overview

OPCAT implementation in Australia remains incomplete. Despite 15 years since Australia signed on to OPCAT and close to 7 years since ratification, Australian governments are yet to resolve the roadblocks to full OPCAT implementation. As a result, Australia remains in breach of its international human rights obligations under the treaty.

The key benefit of OPCAT is that it focuses on the prevention of ill treatment *before* it occurs. It is an opportunity to improve treatment and conditions, support the management of detention environments, and contribute to a greater awareness and culture of human rights within and outside of detention environments. This builds better outcomes for people deprived of their liberty and also for the broader Australian community. Until concrete steps are taken to fully implement OPCAT, these benefits for Australia will not be fully realised.

## Previous recommendations

In our last annual report, we made four recommendations to Australian governments specific to OPCAT implementation:

- appropriate, ongoing funding for all Australian NPM members
- a clear and comprehensive legislative basis for all NPM members
- legislation to enable the SPT to perform its own visit activity across Australia
- further appointment of NPMs to ensure complete coverage of all places of deprivation of liberty across Australia.

*All* of these are necessary for Australia to meet its obligations under OPCAT. Yet to date all remain outstanding in some form.

We recognise there must be Australia-wide commitment to addressing our outstanding implementation needs. The intergovernmental Standing Council of Attorneys-General (SCAG), which includes representatives from the Commonwealth and all states and territories, is a key vehicle for this. In the [communiqué from the 23 February 2024 meeting](#), participants from all jurisdictions “agreed that jurisdictions continue to cooperatively and progressively work towards compliance with OPCAT”. Yet OPCAT is not referenced in any communiqué since then.

## Funding

In May 2024, the Australian Government included in the 2024–25 federal Budget offers of small amounts of time-limited funding for Queensland and Tasmania for OPCAT implementation. The Tasmanian Government accepted [\\$155,000 from the Australian Government as part of \*Closing the Gap\* funding](#), and matched the offer.<sup>1</sup> However, this falls well short of meeting ongoing OPCAT implementation needs, and we [publicly expressed disappointment that the federal Budget did not provide further OPCAT funding](#). As it stands, no Australian NPM member in any jurisdiction has sufficient funding to undertake their full NPM functions. Many members participate in joint work as part of the Australian NPM despite not being funded to do so and we are grateful to them for their generosity and commitment to OPCAT.

## Nomination status

Unchanged from our last annual report, 6 of Australia's 9 jurisdictions have nominated NPMs, with no NPMs nominated in New South Wales, Queensland and Victoria.

Furthermore, the mere nomination of NPMs is insufficient to meet Australia's OPCAT obligations. OPCAT implementation requires sufficient and ongoing funding, as well as legislation that provides a clear basis for all NPMs' functions, powers, protections and independence and that enables SPT visits to places of detention. Currently, no jurisdiction in Australia is fully compliant with these requirements.

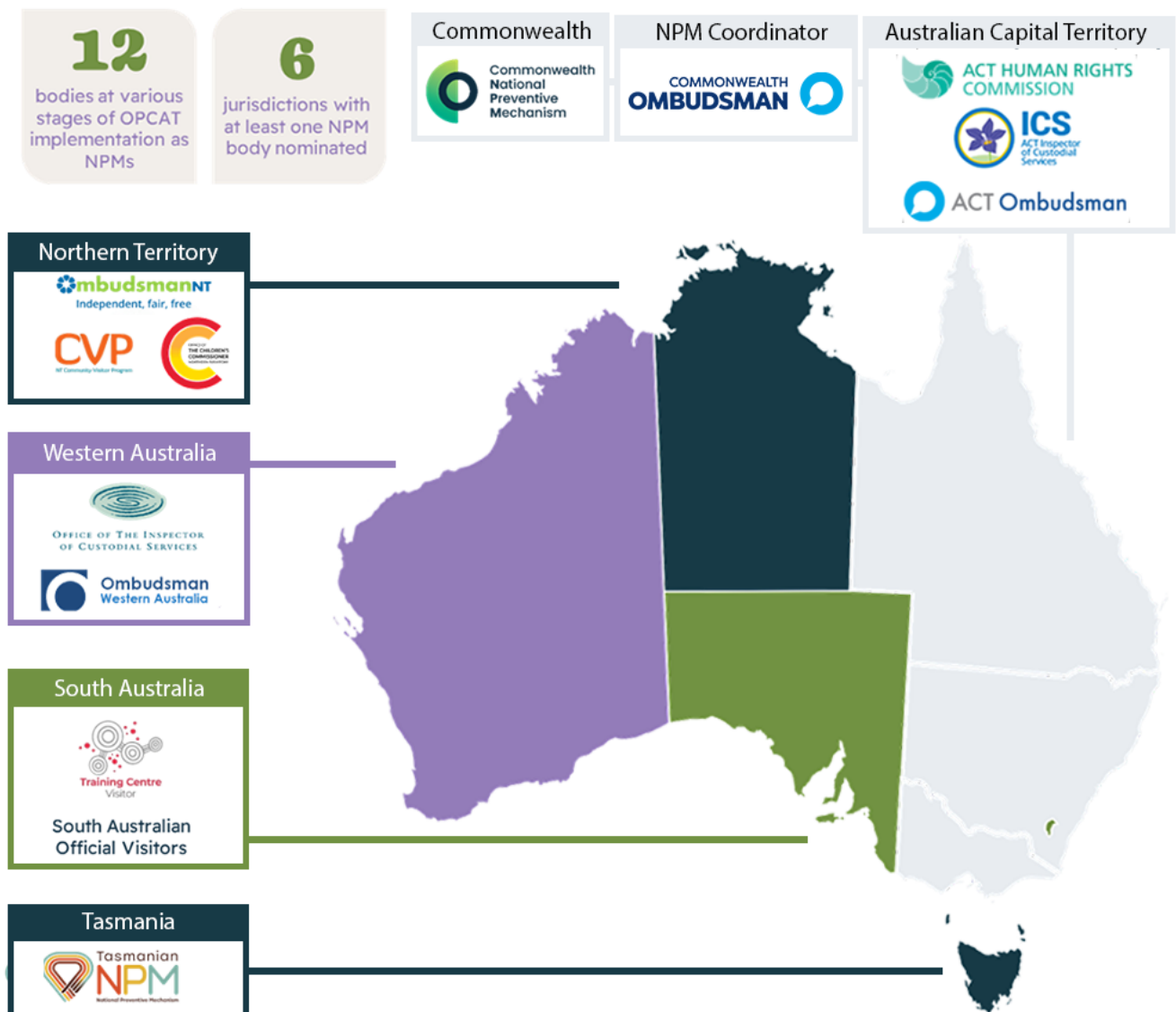
## Legislation

Pleasingly, in 2023–24 the ACT Government introduced dedicated legislation, now in force, establishing the ACT NPM. This has brought the ACT significantly closer to ensuring OPCAT compliance.



# Australian NPM members

The multi-body Australian NPM currently consists of **12 members** across **6 Australian jurisdictions**.



Our terms of reference are available [here](#).

# Australian NPM joint work in 2023–24

Our Australian NPM joint work has continued to demonstrate our common commitment to OPCAT and our collective potential.

## Joint work achievements – 2023–24

4 Australian NPM member meetings

4 joint submissions

3 joint statements

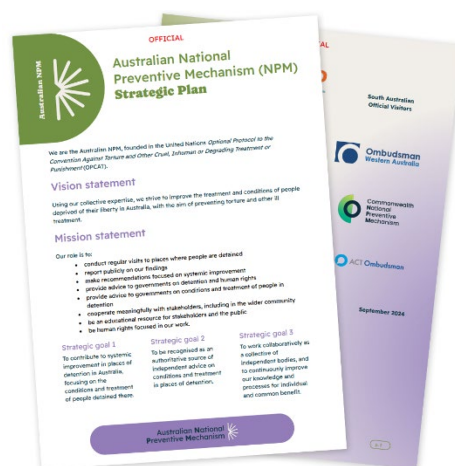
8 training and information-sharing opportunities

## Strategic planning and forward priorities

In May 2024, Australian NPM members produced [a strategic plan, available here](#), which sets out our vision statement, mission statement, and three strategic goals.

Members also prepared a forward work plan for 2025, built around the three strategic goals and centred on the following:

- prioritising two thematic focuses for joint work
  - youth detention
  - healthcare in places of detention
- developing a collective communications strategy
- improving the Australian NPM's online presence
- determining training and development needs and opportunities
- increasing collective engagement with civil society.



# Australian NPM meetings

We held four Australian NPM meetings in 2023–24.

## Australian NPM meeting 5 communiqué – 15 August 2023



**National Preventive Mechanism (NPM) Network  
Communiqué no 5 – 2023**

**Meeting – 15 August 2023**

On 15 August 2023, the Commonwealth Ombudsman, as NPM Coordinator, convened the fifth meeting of Australia's NPM Network.

The NPM Network is the collection of bodies and people currently nominated or appointed as NPMs by Australian jurisdictions, to give effect to Australia's obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The agencies and individuals currently nominated as NPMs have diverse remit, backgrounds, and experience. A list of the agencies and individuals currently nominated as NPMs can be accessed from our [website](#) under 'National Preventive Mechanisms'.

NPM Network members discussed a range of matters including:

- issues with access to health care in detention facilities
- the treatment and conditions of children and young people in youth detention environments in Australia.

NPM Network members shared updates with each other on the various activities they are undertaking in the detention space. NPM Network meetings continue to be an important forum for the members to observe common issues and concerns across different locations and detention environments.

The Australian NPM Network is committed to working together to progress OPCAT implementation in Australia and to produce the first Australian NPM Annual Report. These joint initiatives serve as significant evidence to Australia's OPCAT implementation process and all members in fulfilling OPCAT's preventive mandate.

The NPM Network intends to meet again towards the end of 2023.

As Australia's NPM Coordinator, the Commonwealth Ombudsman chairs meetings of the NPM Network.

More information on OPCAT developments in Australia can be found [here](#).

Contact the NPM Coordinator  
• Online Web Form • 1300 562 072 • GPO Box 442, Canberra ACT 2601

## Australian NPM meeting 6 communiqué – 27 November 2023



**Australian National Preventive Mechanism (NPM)  
Communiqué no 6 – 2023**

**Meeting – 27 November 2023**

On 27 November 2023 members of the Australian NPM held their sixth meeting.

The Australian NPM is the collection of bodies and people currently nominated or appointed as NPMs by Australian jurisdictions, to give effect to Australia's obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). A list of Australian NPM members can be accessed on our [website](#) under 'National Preventive Mechanisms'.

At the meeting, Australian NPM members discussed a range of matters including:

- opportunities for strategic planning and collaboration
- forensic disability facilities and indefinite detention
- the findings and recommendations of the Disability Royal Commission
- further work towards a common identity for the Australian NPM, including to support greater public awareness of its role.

Australian NPM members also shared updates with each other on their recent work. Australian NPM meetings continue to be important opportunities for members to share information with and learn from each other on issues of common concern.

Despite challenges with OPCAT implementation in Australia, particularly the resourcing of NPMs, members of the Australian NPM remain committed to the objectives of OPCAT.

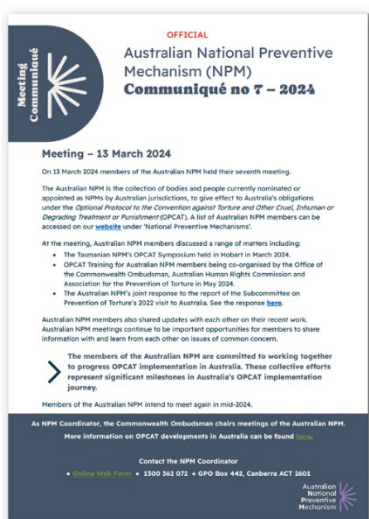
Members of the Australian NPM intend to meet again in early 2024.

As NPM Coordinator, the Commonwealth Ombudsman chairs meetings of the Australian NPM.

More information on OPCAT developments in Australia can be found [here](#).

Contact the NPM Coordinator  
• Online Web Form • 1300 562 072 • GPO Box 442, Canberra ACT 2601

## Australian NPM meeting 7 communiqué – 13 March 2024



**Australian National Preventive Mechanism (NPM)  
Communiqué no 7 – 2024**

**Meeting – 13 March 2024**

On 13 March 2024 members of the Australian NPM held their seventh meeting.

The Australian NPM is the collection of bodies and people currently nominated or appointed as NPMs by Australian jurisdictions, to give effect to Australia's obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). A list of Australian NPM members can be accessed on our [website](#) under 'National Preventive Mechanisms'.

At the meeting, Australian NPM members discussed a range of matters including:

- the Timor-Leste NPMs OPCAT Symposium held in Hobart in March 2024.
- OPCAT Training for Australian NPM members being co-organised by the Office of the Commonwealth Ombudsman, Australian Human Rights Commission and Association for the Prevention of Torture in May 2024.
- The Australian NPM's joint response to the report of the Subcommittee on Prevention of Torture's 2022 visit to Australia. See the response [here](#).

Australian NPM members also shared updates with each other on their recent work. Australian NPM meetings continue to be important opportunities for members to share information with and learn from each other on issues of common concern.

The members of the Australian NPM are committed to working together to progress OPCAT implementation in Australia. These collective efforts represent significant milestones in Australia's OPCAT implementation journey.

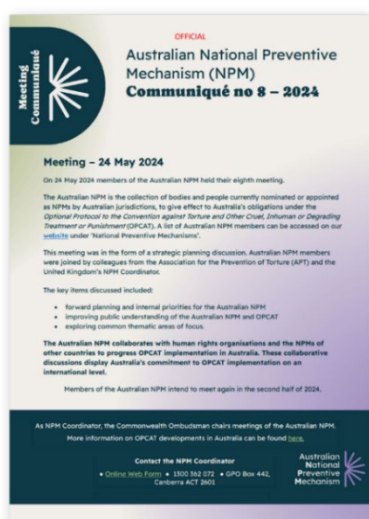
Members of the Australian NPM intend to meet again in mid-2024.

As NPM Coordinator, the Commonwealth Ombudsman chairs meetings of the Australian NPM.

More information on OPCAT developments in Australia can be found [here](#).

Contact the NPM Coordinator  
• Online Web Form • 1300 562 072 • GPO Box 442, Canberra ACT 2601

## Australian NPM meeting 8 communiqué – 24 May 2024



**Australian National Preventive Mechanism (NPM)  
Communiqué no 8 – 2024**

**Meeting – 24 May 2024**

On 24 May 2024 members of the Australian NPM held their eighth meeting.

The Australian NPM is the collection of bodies and people currently nominated or appointed as NPMs by Australian jurisdictions, to give effect to Australia's obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). A list of Australian NPM members can be accessed on our [website](#) under 'National Preventive Mechanisms'.

This meeting was in the form of a strategic planning discussion. Australian NPM members were joined by colleagues from the Association for the Prevention of Torture (APT) and the United Kingdom's NPM Coordinator.

The key items discussed included:

- forward planning and internal priorities for the Australian NPM
- improving public understanding of the Australian NPM and OPCAT
- exploring common thematic areas of focus.

The Australian NPM collaborates with human rights organisations and the NPMs of other countries to progress OPCAT implementation in Australia. These collaborative discussions display Australia's commitment to OPCAT implementation on an international level.

Members of the Australian NPM intend to meet again in the second half of 2024.

As NPM Coordinator, the Commonwealth Ombudsman chairs meetings of the Australian NPM.

More information on OPCAT developments in Australia can be found [here](#).

Contact the NPM Coordinator  
• Online Web Form • 1300 562 072 • GPO Box 442, Canberra ACT 2601

# Joint written work

Our joint written work most commonly consists of public statements on current issues, or joint submissions providing shared views and information on detention and/or OPCAT-related matters. We are pleased that members have been able to support, and in many cases lead, pieces of joint written work.

## Joint statements

In 2023-24, multiple members made three joint statements as the Australian NPM:

### 6 September 2023:

Members made [a joint statement on Queensland law changes and the detention of children in watch houses and adult prisons.](#)



### 21 December 2023:

Members made [a joint statement on the report of the UN Subcommittee on Prevention of Torture's 2022 visit to Australia, and the state party reply to the SPT's report.](#)



**20 May 2024:**

Members made [a joint statement expressing disappointment in the little funding for OPCAT implementation in the 2024-25 federal Budget.](#)



## Joint submissions

In 2023-24, multiple members made four joint submissions as the Australian NPM:

**4 July 2023:**

Members made [a submission to the Parliamentary Joint Committee on Human Rights' \(PJCHR\) inquiry into Australia's Human Rights Framework.](#) The Commonwealth Ombudsman also appeared before the PJCHR on behalf of the Australian NPM. The PJCHR's [final report is available here.](#)



**28 November 2023:**

Led by ACT Office of the Inspector of Custodial Services (ACT OICS), members made [a submission to the UN Special Rapporteur on Torture’s report on current issues and good practices in prison management](#). The Special Rapporteur’s [final report is available here](#).



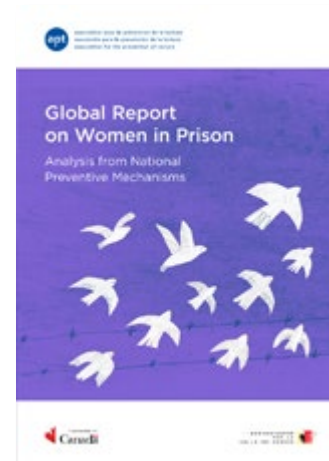
**19 March 2024:**

Members made [a joint response to the report of the SPT’s 2022 visit to Australia, and the state party reply to the SPT’s report](#).



**3 April 2024:**

Led by the Commonwealth NPM, members made a submission to support the Association for the Prevention of Torture’s (APT) Global Report on Women in Prison. The APT’s [final Global Report is available here](#).



## Training and information-sharing opportunities

Given the importance of learning and development, workshops and expert presentations to members formed an important part of our joint activity for the year.

- **July 2023:** Academic experts and advocates presented on reparations, redress and acknowledgements of harm in aged care and public mental health services.
- **July 2023:** Representatives from Harm Reduction International presented on harm reduction approaches to drugs in prisons.
- **September 2023:** A representative from the Danish Parliamentary Ombudsman presented on monitoring forced returns of migrants, and reflections on the challenges of combining ombuds and national human rights institution mandates.
- **December 2023:** Ben Buckland from the APT ran a virtual training session for members on observations from international NPM experiences.
- **March 2024:** The Canadian Office of the Correctional Investigator presented on dry cells in corrections.
- **April 2024:** Emeritus Professor Neil Morgan AM delivered the first of four presentations to members, on visit expectations and standards for NPMs.
- **May 2024:** The Commonwealth Ombudsman, Australian Human Rights Commission (AHRC), the APT and the United Kingdom NPM co-led a training workshop for the Australian NPM in Canberra. More information is on page 16.
- **June 2024:** Emeritus Professor Neil Morgan AM delivered the second of four presentations to members, on legislative frameworks for NPMs and ensuring appropriate powers and responsibilities.

These sessions would not have been possible without the support of various Australian NPM members, and the external partners and presenters sharing their time and expertise.

# May 2024 OPCAT training workshop, Canberra

On 22–24 May 2024, members of the Australian NPM met in Canberra for a three-day training workshop. Members unable to join in person were able to observe virtually.

The workshop was co-organised by the AHRC, the NPM Coordinator and the APT, and members were also able to benefit from the participation of the United Kingdom NPM.

The workshop covered how NPMs operationalise their work, with a focus on sharing practical tips and building cohesion between members of the Australian NPM. The training also provided an opportunity for face-to-face interaction among Australian NPM members.

## Workshop sessions

Prevention as an approach	Visit methodology and process	Interviews in detention
Designing a visit strategy, including across multiple bodies	Monitoring risky practices	Visiting mental health establishments
Convention on the Rights of Persons with Disabilities and a disability-informed perspective	Follow-up to visits and dialogue for change	Measuring change



**Images:** Participants at the training workshop.



# Key common themes in 2023–24

This reporting year we have identified several common themes in places of detention across various jurisdictions, some of which are new and others which are a continuation from common issues we raised last year. These themes do not reflect the full extent of issues across all places of detention and all jurisdictions; rather they are examples of common concerns identified by multiple members.

We acknowledge the interconnectedness of many common issues we have seen. Issues can be symptoms or causes of other issues. Problems in one aspect of the treatment and conditions in detention can quickly lead to further areas of concern, demonstrating the gravity of risks left unaddressed. More positively, it also highlights the inverse: identifying and addressing root issues can lead to flow-on improvements. This also echoes the value of the preventive approach to monitoring detention under OPCAT.

## Youth justice

Youth justice was a key focus of last year’s annual report and remains an ongoing and deeply concerning issue for the Australian NPM.

We acknowledge the tragic death in October 2023 of 16-year-old Yamatji boy Cleveland Dodd, who self-harmed in his cell in youth detention in WA, and later died in hospital. While the circumstances of his death are currently the subject of a coronial inquest, WA OICS has stated this must lead to whole of system reform in youth justice in WA<sup>2</sup> – which we echo applies across the country.

Detention of children must always be a measure of last resort, used *only* when there are no other alternatives. Detaining children does not make our community safer, especially when it masks more fundamental issues which may be upstream in the youth justice system, or outside the system entirely.

As the NT OCC has observed, protective factors which children need in their lives reduce the likelihood of engagement with the justice system in the first place, including:

safe places to sleep, access to health and social services, engaging learning opportunities and the care and connection of our families and communities.<sup>3</sup>

The NT OCC goes on to say that meaningful youth justice reform must start early:

Any such reforms must emphasise prevention and early intervention in improving the lives of children, young people and families to enable generational change; centering the voices, experiences and insights of children and young people in their design, based on the evidence of what works and developed in genuine partnership with the Aboriginal community.<sup>4</sup>

The National Children’s Commissioner has also done significant work across 2023–24 on youth justice matters, culminating in her report entitled *‘Help way earlier!’*.<sup>5</sup> With great care and comprehensiveness, this report provides an analysis of the state of youth justice in Australia, and the evidence-based actions needed for reform.

## Increasing the minimum age of criminal responsibility

Raising the minimum age of criminal responsibility (MACR) in Australia is one tangible reform which will have a direct impact on children and young people’s engagement with the justice system and with detention environments. In our view, the MACR should be 14 years without exceptions, Australia-wide.

Yet in most Australian jurisdictions, the MACR is 10 years. At the end of this reporting period, only 4 jurisdictions had raised or had announced an intention to raise the MACR from 10 years.<sup>6</sup> Of these, the NT Government has since *reduced* the MACR in the NT to 10 years, after it was raised to 12 years in 2023.

Currently, the MACR in Australia remains out of step with international human rights standards, with the United Nations (UN) Committee on the Rights of the Child urging Australia to raise the age.<sup>7</sup> The *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Disability Royal Commission), which handed down its final report this reporting year, also recommended a MACR of 14 years.<sup>8</sup>

As well as a raised MACR, we suggest ceasing the detention of children and young people aged under 16. At young ages, children and young people need alternatives to detention. As the SA TCV has explained:

[Children and young people] said that detention at young ages did not help them, it did not teach them a lesson, it did not rehabilitate them... rather it made things worse. They said that they need people to be there for them when they make mistakes; they need safe places to go; they need safe people to be with.<sup>9</sup>

A raised MACR must also be accompanied by complementary preventive and diversionary measures for those less than 14 who would otherwise, but for a raised minimum age, come into contact with the justice system. These should be therapeutic rather than justice-focused, timely, trauma-informed, evidence-based, culturally safe, and situated within a human rights framework.

Australian governments themselves recognise this. The Standing Council of Attorneys-General’s Age of Criminal Responsibility Working Group, which reported during this year, recognises MACR reform presents an opportunity for a model of therapeutic support focusing on early intervention addressing underlying causes of behaviour.<sup>10</sup> With this in mind, and while emphasising youth justice reform extends far beyond a raised MACR, this is a key space for all Australian governments to move.

# Overincarceration of Aboriginal and/or Torres Strait Islander people in Australia

The overincarceration of Aboriginal and/or Torres Strait Islander people in Australia continues to be an alarming reality across the country with very serious consequences.

Aboriginal and/or Torres Strait Islander people made up 36% of the total prison population at 30 June 2024, yet make up just 3.8% of the total Australian population.<sup>11</sup> A person in an Australian prison was 17.5 times more likely to be Aboriginal and/or Torres Strait Islander than non-Indigenous;<sup>12</sup> women in Australian prisons were 27.6 times more likely to be Aboriginal and/or Torres Strait Islander than non-Indigenous.<sup>13</sup> From 2023 to 2024 when the number of non-Indigenous people in prison increased by 1.3%, the number of Aboriginal and/or Torres Strait Islander people in prison increased by 14.6%.<sup>14</sup>

In youth detention, 60% of the population on an average day in the second quarter of 2024 were Aboriginal and/or Torres Strait Islander children and young people aged 10-17.<sup>15</sup> The rate of detention for Aboriginal and/or Torres Strait Islander children and young people aged 10-17 was more than 27 times higher than for non-Indigenous counterparts.<sup>16</sup>

Overincarceration also significantly increases the likelihood of deaths in custody of Aboriginal and/or Torres Strait Islander people. There were 24 deaths of Aboriginal and/or Torres Strait Islander people in custody – prison custody, police custody or custody-related operations – in 2023-24.

These statistics are alarming. As the NT OCC reiterated in its reporting, the overrepresentation of Aboriginal children and young people in the youth justice system is driven by factors including poverty, socio-economic disadvantage, systemic racism, and intergenerational trauma,<sup>17</sup> which go far beyond the detention environment. Governments must find enduring solutions to prevent detention in the first place.

The rate of incarceration of Aboriginal and/or Torres Strait Islander people in Australia is a reminder that all services and supports within detention environments must be culturally safe for Aboriginal and/or Torres Strait Islander people. But enduring solutions to overincarceration rest in avoiding detention in the first place.

## Use of isolation and inadequate time spent out of cells

Isolation – a broad term encompassing various forms of keeping people who are in detention separated from others – continues to be a common occurrence across adult prison and youth detention environments.

At its extreme end, it encompasses solitary confinement – the confinement of people for 22 hours or more per day, without meaningful human contact.<sup>18</sup> Prolonged and/or indefinite solitary confinement are prohibited under the Mandela Rules,<sup>19</sup> while prolonged solitary confinement may amount to torture or other ill treatment.<sup>20</sup> Solitary confinement of children and young people of any length is prohibited as a disciplinary measure.<sup>21</sup>

But further types of isolation from others commonly occur. People may be confined to their cells because of inadequate staffing. Facilities may be locked down, or people confined to certain spaces, for actual or purported reasons of safety, security or health.

Isolation of any kind must always be a last resort. As with all treatment in places of detention, isolation must never amount to torture or to other cruel, inhuman or degrading treatment or punishment.<sup>22</sup> Facilities should operate with no more restriction than is necessary;<sup>23</sup> detaining authorities must also be able to facilitate for all people in prisons and youth detention environments reasonable periods out of cells, and meaningful contact with other people.<sup>24</sup> Otherwise, the impacts of separation from meaningful human contact for whatever reason, and by whatever means, can be severe: including impacting safety, health and wellbeing, and readiness for life outside of detention.

### Isolation in youth detention

In our previous annual report, we raised significant concerns about the widespread use of different forms of isolation in youth detention across the country. The negative impacts of isolation on a young person are significant, yet members observed various instances of isolation use in this reporting period.

During 2023–24, ACT OICS tabled in Parliament its thematic review into the isolation of children and young people at the Bimberi Youth Justice Centre, conducted as a pilot NPM visit under OPCAT.<sup>25</sup> As part of the review, ACT OICS discovered that on admission to custody at Bimberi, children and young people were still required to undergo COVID-19 related health segregation – usually for 6–7 days.<sup>26</sup> This was despite youth detention no longer being categorised as a ‘high risk setting’ by the ACT Chief Health Officer, and despite there no longer being any formal COVID-19 restrictions in place in the community. Subsequent to ACT OICS’ intervention, this has since ceased.

One example of the various consequences of the use of isolation was ACT OICS' finding that the continued use of COVID-19 isolation measures on children and young people was also impacting communications with legal representatives. ACT OICS reported that if lawyers wanted to speak with their clients while the latter were subject to COVID-19 isolation, "[...] Bimberi staff placed a telephone at the bottom of the cell door on speaker phone with the child or young person on the other side of the door, speaking through the gap at the bottom of the door".<sup>27</sup> This practice undermined the need for children and young people to be able to communicate confidentially with their legal representatives, something which is of particular importance when – as most held at Bimberi are – children and young people are detained on remand.

At the Adelaide Youth Training Centre (AYTC) in SA, restricted routines and lockdowns caused by facility incidents regularly led to the isolation of children and young people in their rooms. Significantly, this impacted the SA TCV's own ability to engage while on site, with the SA TCV's access to children and young people impacted during almost 40% of their visits in 2023–24.<sup>28</sup> Conversations with SA TCV Advocates was on numerous occasions only possible through locked room doors, undermining privacy and confidentiality of discussions between children and young people and SA TCV advocates.<sup>29</sup>

The NT OCC reported that during their informal monitoring visits, children and young people consistently raised concerns about the use of separation practices including rolling lockdowns.<sup>30</sup> Rolling lockdowns occur when children and young people are locked in their cells so that others in separate accommodation wings can have time out of their own cells. They are often the result of staff shortages and, concerningly, lead to children being locked alone in their cells, sometimes for long periods, without fresh air and meaningful engagement.<sup>31</sup> Children and young people told the NT OCC that lockdowns were impacting their ability to access meaningful therapeutic programs,<sup>32</sup> made them feel frustrated, and were not supportive of good mental health.<sup>33</sup>

In February 2024 the Australian and New Zealand Children's Commissioners, Guardians and Advocates (ANZCCGA) released [a joint statement on the use of isolation in youth detention](#). This called for a national prohibition on isolation practices on children, except where necessary to prevent an imminent and serious threat of injury, and only when all alternatives are exhausted. If used, isolation practices must be for the shortest time possible and must be publicly reported to an independent oversight mechanism. Among Australian NPM members, the NT Children's Commissioner, SA Guardian for Children and Young People, and ACT Children and Young People Commissioner are each members of the ANZCCGA.

## Adult prisons

In the NT Ombudsman's investigation into separate confinement at the Darwin Correctional Centre, they observed that the purpose of such confinement is to limit a person's interactions with other people to manage risks, but not to deprive the person of all social interaction.<sup>34</sup>

Despite this, the NT Ombudsman found no instances recorded in their sampled cases where confined people accessed their minimum of one hour out of their cell for every day of their confinement.<sup>35</sup> In one examined case, one person was separated for 11 days yet their only time out of their cell in records was recorded as 'rear door open' for an unspecified period on a single day.<sup>36</sup>

Under NT Correctional Services' (NTCS) procedures, people who are administratively separated are permitted one 30 minute non-contact visit per week, and access to welfare, Aboriginal liaison or prison support officers on request. Only one of the sampled cases indicated a person was escorted to a visit during their separation, and none of the sampled cases indicated any support requests were made, denied or facilitated.<sup>37</sup>

None of the records sampled established what – if any – cell-based activity was provided to the people confined, including any materials they had access to.<sup>38</sup> The report found that the people in administrative separation were largely left to occupy themselves, that human contact came down mostly to meal deliveries, and there was no evidence found that people were given reasonable time out of their cells.<sup>39</sup>

In its report into the use of dry cells in Tasmania, the Tasmanian Custodial Inspector discussed a person placed on a dry cell management plan in a crisis support cell, without any recorded separation order to authorise this, contrary to legislation.<sup>40</sup> The Tasmanian Custodial Inspector was of the view that dry cell isolation practices they observed were inhumane and punitive, including due to the cell being constantly lit and people held in them lacking mental stimulation while isolated.<sup>41</sup>

The Tasmanian Custodial Inspector was also informed of a 'hostile management regime' in place in a maximum security unit in the Risdon Prison Complex (RPC), where people are separated from others for punishment or for good order and safety.<sup>42</sup> Under this regime, mattresses and personal items were taken away from the people detained. This regime was unsanctioned and contrary to Tasmania Prison Service (TPS) policy and procedures, and ceased as a result of Tasmanian Custodial Inspector inquiries. However, given the potential issues this raises, the Tasmanian Custodial Inspector will be inquiring into this further in 2024–25.<sup>43</sup>

WA OICS found during its inspection of Hakea Prison that ongoing daily staff shortages meant the adults detained there were regularly unable to access reasonable time out of their cell or unit, impacting access to fresh air and exercise.<sup>44</sup>

‘Adaptive regimes’ used when daily staffing numbers are incomplete mean redeploying staff from different services to essential functions, which can result not only in people being isolated to wings or cells for extended periods, but in some cases de-prioritised services being unavailable for weeks or even months at a time.<sup>45</sup>

In Tasmania, ongoing lockdowns in the adult RPC continue to be a matter of concern, with the Tasmanian Custodial Inspector describing the average out of cell time at the RPC as “disturbingly low”.<sup>46</sup> Both medium and maximum security units at the RPC had an average daily out of cell time far short of the planned 8.3 hours daily,<sup>47</sup> with lockdowns leading to stress and social isolation, as well as impacting the ability to access health facilities and keep the inpatient area at the RPC clean.<sup>48</sup>

The Tasmanian Custodial Inspector also reported on an entire maximum-rated unit in the RPC being locked down for a day due to some people in the unit having made sexist remarks to correctional officer. Despite records indicating some people detained in the unit actively avoided becoming involved in the incident, all 23 people in the unit were locked down as a result. The Tasmanian Custodial Inspector reported on this incident as a concerning example of collective punishment, contrary to international human rights standards.<sup>49</sup>

## Facility population pressures

The total number of people in prison in Australia continued to grow in 2024, with the prison population on 30 June 2024 standing at 44,403, a 5.9% increase from a year earlier.<sup>50</sup> The rate of imprisonment also grew in the same period, to 208.2 people imprisoned for every 100,000 people in the adult Australian population.<sup>51</sup>

Population pressures within facilities can impact various facets of their operations, including their material suitability for the numbers of people being detained and the capacity for people to access services, supports, healthcare and other needs.

WA OICS reported that population pressures in WA’s adult prison system were probably the major challenge identified in their oversight activity.<sup>52</sup> At the end of the reporting period, the total adult population in WA prisons had increased by 15% from a year earlier, with most facilities operating at or near capacity,<sup>53</sup> and multiple regional WA prisons operating consistently above capacity.<sup>54</sup> Towards the end of the reporting year, WA OICS increasingly observed further people sleeping on mattresses or trundle beds on cell floors,<sup>55</sup> which further compromised already challenged basic living conditions, including maintaining safety, cleanliness and airflow.<sup>56</sup>

But importantly, managing population increases is about more than sleeping space. WA OICS also observed that despite bed increases, other infrastructure and critical support services within prisons have historically not kept up.<sup>57</sup> As a flow-on impact, they observed that population pressures as a whole across the network of WA prisons

meant more Aboriginal people were being detained in facilities off Country, and away from their families and cultures.<sup>58</sup>

## Detention of people on remand

Population increases were also strongly linked to numbers of people being detained on remand. The number of unsentenced people in prison in Australia, the vast majority of whom are held on remand, increased by 13.2% between 30 June 2023 and 30 June 2024.<sup>59</sup> In comparison, the number of people serving a sentence of imprisonment increased by only 1.5% over the same period. On 30 June 2024, over 40% of all people held in prison were unsentenced, the highest proportion since the beginning of this particular data collection in 1994.<sup>60</sup>

In Tasmania, the new 156-bed Southern Remand Centre (SRC) for adult men opened on 30 July 2022. While this initially relieved population pressures in TPS facilities, there has been a noticeable increase in the overall number of people in custody since, which the Tasmanian Custodial Inspector indicates is likely linked to the SRC's opening.<sup>61</sup>

At the end of the reporting period, the 15% increase in the total adult population in WA prisons from a year earlier was driven principally by increases in unsentenced women and men, increasing by 34% and 27% respectively.<sup>62</sup> The 34% increase in unsentenced adult women detained in WA had also disproportionately occurred within the Aboriginal women's population, increasing by 50% in contrast to an increase of 11.5% for non-Indigenous women.<sup>63</sup>

## The use of watch houses for detention

The NT Ombudsman has noted that police watch houses in Darwin and in Alice Springs have been in use by NTCS to detain adults who should otherwise be detained in prison, as a means of addressing high population numbers.<sup>64</sup> This has now occurred for more than a year, yet there was no clear end date to the practice. While work is underway to address prison overcrowding through facility capacity expansion, the NT Ombudsman expressed concerns that, due to population numbers, such work may still be insufficient to ensure watch houses would not be used to detain people who should be detained in prison.

For children and young people, [we have previously stated](#) that police watch houses are not appropriate places of detention. In November 2023, the SA TCV elaborated further on the situation in SA. They explained that children and young people arrested in SA outside of a 40 kilometre radius of the Adelaide CBD can lawfully be held in police cells, and the SA Government has advised that capacity to comply with legislative limitations upon detaining children and young people arrested within metro Adelaide within police facilities has been impacted by the 'closure' of physical infrastructure for cells within the Youth Court precinct.<sup>65</sup> For some time, the SA TCV has heard from children and young people themselves about poor treatment and



traumatising conditions when detained in police cells. In some regional and remote areas, up to 100% of admissions to police custody were for Aboriginal children and young people. However, the alternative – transporting children and young people from regional and remote SA to Adelaide in order to be detained instead at the AYTC – has serious human rights implications, including the potential for the transport to impact health and safety, and cause distress including through separating children and young people from their families and communities. The SA TCV explained the need for investment in diversionary opportunities as a priority, to avoid detention. To the extent that children and young people are detained by police within either metro Adelaide, or regional or remote areas in SA, the SA TCV has stated that it is inappropriate for this to occur in adult police facilities.

## Staffing difficulties

Once again, this year staffing difficulties have continued to impact the management of adult prisons and youth detention, in turn having significant flow-on effects.

WA OICS reported that staffing issues significantly exacerbate the already challenging consequences of facility population pressures. Daily shortfalls of both custodial and non-custodial staff<sup>66</sup> impact almost all parts of prison life, including regular restrictions on being able to access “employment, education, recreation, programs, support services, and visits”.<sup>67</sup> During the year, WA OICS found a correlation at Hakea Prison between the use of adaptive regimes involving high-level lockdowns – a consequence of insufficient staff – and an increase in self-harm and suicide attempts.<sup>68</sup> More information on this is in the case study on page 33.

In examining the high rates of absenteeism among WA correctional staff, WA OICS described reports from staff of low morale, pressures from increased populations without corresponding resource increases, and unsustainable safety risks to themselves and to people detained.<sup>69</sup>

Staffing difficulties were also observed in places of detention beyond corrections. The NT CVP reported on staffing shortages within the NT Mental Health Service, including that children in the ward were at times receiving one-on-one support from untrained uniformed security staff.<sup>70</sup> They were advised this was a last resort measure when other health staff were unavailable, but the practice was still of concern. The NT CVP has since been informed that this practice is no longer occurring.<sup>71</sup>

After a visit in the reporting year, the Commonwealth NPM also observed the lack of permanent women police staff rostered to Cocos (Keeling) Islands Police Station which, among other things, raises concerns and complexities in the event searches may need to be conducted on women detained at the station.<sup>72</sup>

In SA, official visitors have reported that staffing levels led to major disruptions to the effective and efficient running of prisons.<sup>73</sup> The challenge of low staffing numbers in SA prisons means a reduction in access to education and recreation opportunities,

as well as impacts to access to family and other supports. This in turn leads to safety risks associated with the increased likelihood of people detained being disgruntled and unhappy.<sup>74</sup>

There are also continued challenges in SA prisons with recruitment and retention of Aboriginal and/or Torres Strait Islander staff, and so ongoing difficulties among people in prison accessing supports from Aboriginal and/or Torres Strait Islander staff. While each facility is to employ an Aboriginal Liaison Officer (ALO), during the reporting year multiple facilities had no ALO present for extended periods.<sup>75</sup>

As SA official visitors observe, it appears not enough time is spent engaging with Aboriginal and/or Torres Strait Islander people in prison and following up on their concerns. While the root cause of the issue is difficult to identify:

In my opinion there are multiple concerns related to workload capacity issues, cultural load concerns, insufficient management support, time consuming processes and procedures and a lack of priority upon the role which all contribute.<sup>76</sup>

The current model appears not to provide the level of support necessary in all facilities for Aboriginal and/or Torres Strait Islander people being detained, and so more work is required to recruit and retain staff to such positions.<sup>77</sup>

Staffing shortages can also impact Australian NPM members' own oversight activity. As noted [above](#), in-cell isolation – regularly linked to staff shortages – impacted the SA TCV's ability to fully engage with children and young people in detention at the AYTC in 2023–24.<sup>78</sup> While access to parts of the AYTC has never been denied to the SA TCV, operational limitations – most notably, staffing numbers – have impacted the ability to have private conversations with children and young people.<sup>79</sup>

While staffing remains a significant issue, some members did note some positive signs. The Tasmanian Custodial Inspector reported that, encouragingly, recruitment has started to establish a dedicated mental health team based within the prison system – something of particular importance given people in custody regularly face mental health difficulties to a much greater extent than the rest of the community.<sup>80</sup> WA OICS has also acknowledged the expansion of local recruitment initiatives in several WA regions, of particular importance given staff vacancies were especially noticeable in WA's regional facilities.<sup>81</sup>

## **Data collection and recordkeeping shortcomings**

In our last annual report, we raised concerns with incomplete data and inaccurate or inconsistent recordkeeping with regards to the time children and young people spend out of their cells in youth detention. This year, members have continued to note problems with data collection and recordkeeping across multiple areas.

## Youth detention: time spent out of cells / time spent in isolation

We reported last year on the fact that unlike for adult corrections, the Australian Government's Report on Government Services (RoGS) does not require public reporting on the amount of time children and young people spend out of their cells in youth detention.<sup>82</sup> This currently remains the case.

Reinforcing this as an ongoing issue, ACT OICS has described the difference between RoGS reporting requirements for adult prisons and for youth detention as a significant gap, meaning youth detention authorities have no 'business incentive' to maintain records of all causes of reduced out of cell time.<sup>83</sup>

In its review into isolation in youth detention, ACT OICS found that the Bimberi Youth Justice Centre did not have consolidated data records on time spent out of cells by each young person. Data was dispersed across different record holdings and formats, was resource intensive to compile, and was neither routinely collated nor regularly analysed and monitored.<sup>84</sup> ACT OICS recommended that irrespective of RoGS requirements, the ACT Government should establish a consolidated register of all types of lockdowns, and publicly report on the time spent out of cells.<sup>85</sup>

With regards to youth detention in Tasmania, the Tasmanian Custodial Inspector included statistics on time spent out of room, or in isolation, in their own annual reporting, but observed the accuracy of data could be impacted by the manual data entry methods used by detaining authorities, as well as insufficient staffing and other staffing pressures.<sup>86</sup> The Tasmanian CI found various discrepancies in the dataset they were provided when triangulating it with other data.<sup>87</sup>

Given these identified challenges, we consider that all Australian governments need to implement improved, Australia-wide, consistent data capture and public reporting on the use of isolation practices in youth detention. This should be based on agreed and consistent national definitions, and include, but not be restricted to, time children and young people spend out of their cell. This data should be disaggregated by at least age, sex, disability status, Aboriginal and/or Torres Strait Islander status, ethnic origin, and geographic location.

### Other data concerns

In 2022–23, the SA TCV found many instances where serious events in youth detention were not appropriately recorded in facility systems, which prompted an inquiry into incident reporting. While they observed some recordkeeping improvements in 2023–24, and noted the SA Department of Human Services were working towards clearer staff guidance, the core of recordkeeping issues had not yet been resolved and would be monitored closely in 2024–25 ahead of making formal findings as part of their inquiry. The SA TCV highlighted the importance of keeping accurate records:

clear and comprehensive record keeping enables the workforce to appropriately respond to young people's needs and implement appropriate systemic responses.<sup>88</sup>

The Tasmanian Custodial Inspector also reported on concerns with the publication of data on escapes from youth detention in national RoGS reporting. The Tasmanian Government suppresses youth detention escape data in RoGS reporting where there are less than five escapes in a reporting year, for confidentiality reasons. But the Tasmanian Custodial Inspector stated suppressing the number of people who had escaped from youth detention was not in the public interest, given detention is a key function of such facilities and transparency about escapes goes to public accountability.<sup>89</sup> They also added that, in reality, information on escapes is often publicly available from other sources anyway.

As part of their thematic review into separate confinement in the Darwin Correctional Centre, the NT Ombudsman found the records they were provided while undertaking their review often contained limited information.<sup>90</sup> For example, from their data sample, records of daily reviews to determine whether or not separate confinement of a person should continue contained no clearly documented reasoning in staff decision making.<sup>91</sup> This raised doubts for the NT Ombudsman whether adequate assessments of risks and circumstances were in fact occurring each day, when accurate records should have been able to indicate evidence-based decision-making.

In its inquiry into recording and reporting of self-harm and attempted suicides in custody, WA OICS also noted incident reporting which at times lacked detail or contained inaccuracies, and also the reality that some such incidents were entirely unrecorded.<sup>92</sup> Incidents of self-harm and attempted suicide being unrecorded or inaccurately recorded:

[...] will result in the Department's reporting not reflecting actual rates of self-harm or suicidality and may also result in people not receiving the monitoring and supports needed following a self-harm incident.<sup>93</sup>

From their visit activity, the Commonwealth NPM also reported on a technical example of recordkeeping shortcomings. They found that neither Christmas Island nor Cocos (Keeling) Islands Police Stations had a 'digital record of interview' facility in place. Instead, interviews are recorded by way of laptop computer, which does not allow for automatic date and time stamping, nor for interview copies to be immediately available to people in detention or their legal representatives.<sup>94</sup> Similarly, the Commonwealth NPM has called for accurate and consistent recordkeeping on use of force incidents in immigration detention facilities.

Accurate data and recordkeeping are critical to all facets of operating places of detention. Data needs to be collected and stored in a manner that ensures timeliness, detail, accuracy and accessibility. Data must also be appropriately transparent given its inherent role in accountability for the functions detaining authorities ultimately undertake for and on behalf of the broader public.

## Suitability of facilities, and other support, for people with disability

It merits reiterating that, as discussed at length during the Disability Royal Commission, people with disability are overrepresented in custodial settings, and Aboriginal and/or Torres Strait Islander people with disability are particularly overrepresented. Yet the Disability Royal Commission heard evidence that people with disability in prisons are:

- more likely to have difficulty coping with the prison environment
- more likely to experience a higher rate of comorbid mental health disorders and physical conditions than prisoners without disability
- at increased risk of being disadvantaged and socially isolated
- at higher risk of returning to custody.<sup>95</sup>

Australia has obligations at international law with regards to people with disability in detention, including that they be free from torture and other ill treatment, and that they be provided with appropriate accommodation while deprived of their liberty.<sup>96</sup> Despite this, this year some members have continued to raise shortcomings in this regard.

WA OICS reported that infrastructure limitations result in few dedicated living spaces for people with high needs, and limited capacity among those which do exist.<sup>97</sup> The Commonwealth NPM and ACT Ombudsman reported that cells at the ACT Watch House are not fitted with handrails to assist people with restricted mobility accessing toilets, hand basins or drinking fountains; nor was it clear how a person with vision impairment would be able to navigate an unfamiliar cell, or locate the in cell intercom to call for assistance.<sup>98</sup> They also reported on comparable concerns with the Gungahlin Police Station.<sup>99</sup>

Outside of corrections environments, the Commonwealth NPM also observed infrastructure shortcomings in High Care Accommodation (HCA) units at the [Melbourne Immigration Detention Centre](#), which required addressing to ensure accessibility of these spaces for people with disability. This recommendation was not accepted by the detaining authority. This most recent visit echoed previous observations and recommendations made on accessibility in HCA units in immigration detention. In their Annual Report for 2022–23, the Commonwealth NPM recommended a review of detention-related infrastructure within 6 months, with a focus on the needs of detained persons including those with disabilities. The detaining authority accepted that recommendation and advised they had an ongoing program to address it; however, neither the review nor the improvements have occurred.

Beyond material conditions, WA OICS also reported on a lack of consideration of individual impairments in behaviour management policies, as well as a lack of

ongoing training for custodial staff.<sup>100</sup> They described disability awareness training for custodial staff as ‘fundamentally inadequate’, though the WA Department of Corrective Services is now engaged in planning for introducing training for adult custodial staff, and exploring significantly increased training for youth custodial staff.<sup>101</sup>

Last year, we reported on barriers to accessing individualised disability supports in prisons and in youth detention, including through the National Disability Insurance Scheme. This reporting year, the Disability Royal Commission handed down its final report, as did the Australian Government’s separate NDIS Review. Both final reports called on governments to resolve issues with the NDIS–criminal justice system interface.<sup>102</sup>

The responses to the Disability Royal Commission from all Australian governments were released on 31 July 2024. However, rather than accept recommendation 8.17 on the NDIS–criminal justice system interface, they instead stated it was subject to their further consideration, including alongside the recommendations of the NDIS Review. We reiterate, as we have previously stated, that this work must be a priority.

## **Shortcomings with meaningful engagement and access to appropriate programs**

In its inspections, WA OICS found increased numbers of people in WA prisons facing idleness, unable to access meaningful activities during their day.<sup>103</sup> Prison populations had risen, but services had not risen in turn to match this increase. This included employment, education and recreation opportunities, as well as treatment programs essential for rehabilitation and key to successful early release applications.<sup>104</sup>

The Tasmanian Custodial Inspector’s reporting also explains that in adult prisons in Tasmania, “[b]oredom is rife, and is soul destroying”.<sup>105</sup> There appears to be limited education available, very limited training opportunities and almost no vocational skills development.<sup>106</sup> People in prison explained that a lack of access to education, training and structured activities negatively impacted mental health, preparing for their release, and their hopes of succeeding in not re-offending once released.<sup>107</sup> Despite a strong motivation among different staff to increase access to opportunities for self-development, predictably staffing shortages and resourcing limitations reduced the ability to offer such opportunities.<sup>108</sup>

The NT OCC also reported on boredom being a regular theme when visiting children and young people in detention in the NT.<sup>109</sup> Children and young people wanted more activities available to them, such as sports, art and other education opportunities. As the NT OCC explain, programs and activities such as these are opportunities for positive connections and access to role models, which can support their post-detention transition.<sup>110</sup>

In SA, official visitors report that many people serving sentences continue to have difficulties accessing appropriate programs ahead of their conditional release date, where such programs are key to parole decision-making by the parole board.<sup>111</sup> People in prison are keen to complete these programs and should be able to do so before their conditional release date, to increase their opportunity for more time on parole towards better reintegration into the broader community.<sup>112</sup> Yet as it stands, demand for many courses far outweighs supply.<sup>113</sup> Despite completion of mandatory criminogenic courses often being the only thing preventing a person's release on parole, the number of places allocated in courses for the next year appears not to meet expected program demand.<sup>114</sup>

Further in SA, official visitors report on multiple apparent difficulties in accessing some form of education within the prison system. These include a lack of resourcing and education staff, limited access to materials and facilities for effective study, and an apparent reluctance by institutions to allow engagement for further education.<sup>115</sup> In reminding that education is a right and not a privilege, and no less for people detained, official visitors have recommended greater and more proactive encouragement of education and training opportunities, as well as the appropriate tools and resources to back this up.<sup>116</sup>

Meaningful engagement and day to day stimulation for the immediate term is no less important. Yet ACT OICS found that during COVID-19 isolation at the Bimberi Youth Justice Centre, the material conditions included few items to entertain children and young people beyond a television.<sup>117</sup> In the NT Ombudsman's investigation into the use of separate confinement at the Darwin Correctional Centre, they found none of the records they sampled established what – if any – cell-based activity was provided to the people confined, including any materials they had access to,<sup>118</sup> with people in administrative separation largely left to occupy themselves.<sup>119</sup> Outside of prisons and youth detention, the NT CVP also raised concerns with children placed in NT Government mental health inpatient services, noting particularly the lack of meaningful age-appropriate activities for children and young people receiving services in adult wards, as well as reports of boredom in such cases.<sup>120</sup>

Access to meaningful opportunities of various kinds for engagement and stimulation is essential to the wellbeing of all people deprived of their liberty. For those in prisons and youth detention, this is also critical to supporting their prospects once released – whether or not they are serving, or subsequently serve, a sentence of imprisonment.

## Management of heat

The NT Ombudsman reported on its ongoing concerns regarding heat stress at the Alice Springs Correctional Centre (ASCC), which lacks air conditioning.<sup>121</sup> The NT Ombudsman notes that people in prison are inherently more restricted in what they can do to manage heat, and high population numbers (often exceeding design

capacity) further exacerbate by impacting already restricted space and limited airflow. The resulting stresses can also have behavioural consequences for the people detained, impacting safety, welfare and facility management.<sup>122</sup>

Prior, sustained criticisms of the WA Government's failure to provide air conditioning at Roebourne Regional Prison have been well documented, and while installation is in progress, completion is not expected until after the 2024–25 wet season where temperatures reach their highest.

The Commonwealth NPM also found that the police holding cells at the Cocos (Keeling) Islands, which have no fresh air access, had non-functional air conditioning. The system was out of operation during their visit, was regularly breaking down, and required replacement. The Commonwealth NPM suggested the system be entirely replaced and a regime of regular testing be implemented, which the Australian Federal Police agreed subject to appropriate funding being available.<sup>123</sup>

International standards on prisons provide that due regard must be paid to climate conditions, including particularly relating to ventilation.<sup>124</sup> Australia's geographic diversity regularly means temperature extremes, and so all facilities where people are deprived of their liberty must be designed and maintained to take account of this and ensure the people detained are held in an appropriate temperature enabling safety and comfort.



# Australian NPM member case study: Western Australia



## WA Office of the Inspector of Custodial Services – 'show cause notice'<sup>125</sup>

On 27 May 2024, the WA Inspector of Custodial Services issued a 'show cause notice' under its legislation to the then Acting Director General of the WA Department of Justice (Department).<sup>126</sup>

The Inspector issued the notice after concerns were identified during WA OICS' inspection of Hakea Prison (Hakea) in May 2024 that, due to ongoing daily staff shortages, people detained at Hakea were being held in conditions that failed to meet minimum human rights standards. This included being regularly subjected to restricted regimes, not receiving adequate access to fresh air and exercise through reasonable time out of cell or unit, being held in unhygienic conditions, and not having adequate opportunities for contact with family and friends. At the time, these problems were compounded by Hakea's population being at or above 100% capacity.

As a consequence of these conditions, the Inspector believed people detained at Hakea were being treated in a manner that was cruel, inhuman or degrading. Further, it appeared people were increasingly responding to the circumstances with anger, frustration, and challenging or dangerous behaviours including suicides, suicide attempts, serious self-harm attempts, and assaults.

The Department responded to the notice acknowledging many of the issues the Inspector had raised, and setting out its plans and initiatives to address the concerns. Nonetheless, in June 2024 the Inspector referred the matters to the Minister for Corrective Services. While acknowledging the Department's plans and initiatives, the Inspector was not convinced they would resolve concerns in the immediate term, meaning that inadequate conditions and safety risks would persist.

The Inspector believed that, given the scale of issues, a broader system-level response was required with collaboration across relevant agencies.

The Minister's response acknowledged the Inspector's concerns and reiterated the Department's commitment to addressing the issues raised. Further detail on the Minister's response will be outlined in the Hakea inspection report, which is anticipated to be published in April 2025.



**Image 1:** Cell in Hakea Prison



**Image 2:** Cell in Hakea Prison

# Australian NPM member case study: Australian Capital Territory



## ACT Office of the Inspector of Custodial Services – constructive engagement with detaining authorities

In June 2023 ACT OICS conducted an NPM pilot visit to the Bimberi Youth Justice Centre, the ACT's sole youth detention centre.

This was the first time ACT OICS had undertaken a visit 'semi-unannounced'. A general period for the visit had been indicated to the detaining authorities ahead of time, but not the precise week or time of day for arrival. ACT OICS had conducted an information session for staff about OPCAT and functions of an NPM, and the detaining authorities had briefed all relevant staff that a visit may occur and on the NPM's powers and functions, and so when the visit team arrived the initial hours onsite proceeded smoothly.

Another new approach for the ACT OICS review team for the visit was being given access to keys and radio by the detaining authorities for the first time. This enabled the team to walk around the centre unaccompanied, and lessened the operational impact on facility staffing. This occurred smoothly, and the practice has since continued without any issues.

On a subsequent visit to the same facility for a different review, the review team enquired whether it would be possible to have a 'tour' of the centre from one of the young people detained there. With the support of management, a young person was able to do this, and the tour occurred unescorted by facility staff. This tour assisted the review team to better understand youth detention from a young person's perspective, and ACT OICS is grateful for the constructive engagement from the detaining authorities to support this activity and approach.



**Image 1:** The ACT OICS Review Team onsite for the NPM Pilot thematic review of isolation of children and young people in detention



**Image 2:** Holding cell in Coree Unit at Bimberi

# Australian NPM member case study: Commonwealth



## Commonwealth NPM – reducing the risk for women – changes in healthcare practices in immigration detention

During an OPCAT monitoring visit to an Immigration Detention Centre, the Commonwealth NPM identified that the health induction assessment did not routinely offer pregnancy testing. The health induction assessment must be completed for all people within 72 hours of arrival in detention.

Early pregnancy detection is critical to the provision of appropriate care for women in places of detention. It allows for early identification, provision of prenatal care, counselling, and helps identify women who may be at risk of pregnancy-related complications.

The Commonwealth NPM had already begun discussions with the centre's management on addressing this gap when the risks of not identifying pregnancies during the health induction assessment became evident. A woman who had recently entered immigration detention was urgently taken to hospital. She was experiencing a potentially life-threatening ectopic pregnancy. The routine offer of a pregnancy test could have identified she was pregnant sooner and allowed for an appropriate care plan to be put in place.

The Commonwealth NPM recommended that the Department of Home Affairs (Home Affairs) and the Detention Health Service Provider should offer pregnancy testing to all women of childbearing age during their health induction assessment.

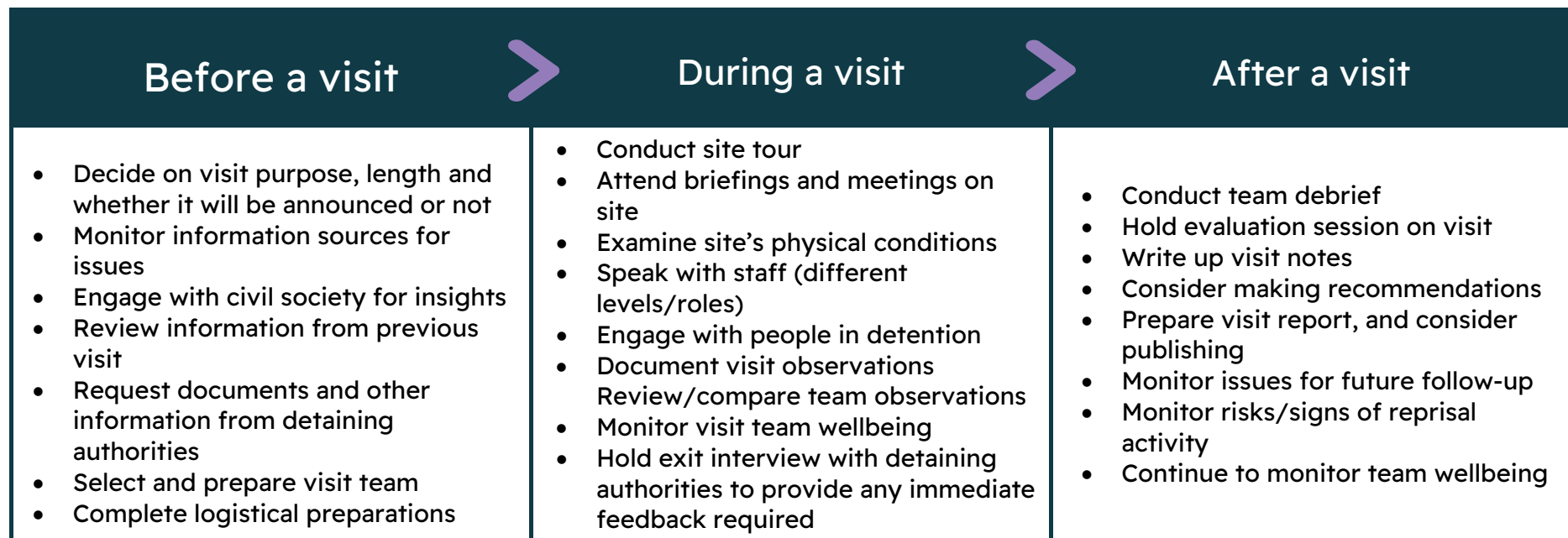
Home Affairs accepted this recommendation, and assured the Commonwealth NPM that it will be an area of focus going forward.

## Explainer: OPCAT visits

OPCAT aims to establish a system of regular visits by both NPMs and the SPT.<sup>127</sup> Conducting regular visits to places of detention is one of the four core functions of an NPM,<sup>128</sup> and a key means of regularly examining treatment and conditions.

NPMs have significant flexibility in how they conduct their visits. This gives them the freedom to adapt to their own needs, priorities and chosen focuses. Fundamentally, visits allow NPMs to communicate with people in detention, see first-hand how places of detention operate, and see how people are treated. Visits support the identification of risks before ill treatment occurs, and under OPCAT can take place at any time, with or without warning.

The below is a snapshot of what an NPM visit to a place of detention might look like, when properly resourced.



# Jurisdictional updates during 2023–24

Below are selected updates on the work of our 12 Australian NPM members in 2023–24. Further background on and profiles of each member can be found in [Appendix 2 of our 2022–23 Australian NPM Annual Report here](#).

## Australian Capital Territory



During the reporting period, the ACT NPM undertook several activities collectively in addition to each member agency's individual work. Collective work by the ACT NPM included:

*Promoting awareness* – The ACT NPM reviewed the SPT report on its visit to Australia and the Australian Government's response. Following their publication in March 2024, the ACT NPM wrote to the ACT Attorney-General providing clarifications concerning the Government's response, which is available on the [ACT NPM's website](#).

*Legislation and policy* – In February 2024, the ACT NPM wrote to the ACT Corrections Minister to advocate for corrections laws to reflect minimum standards concerning solitary confinement.

Members of the ACT NPM engaged collaboratively with the ACT Government as it developed legislation to bring the ACT significantly closer to compliance with OPCAT. In May 2024, the Monitoring Places of Detention Amendment Bill 2024 was introduced into the ACT Legislative Assembly. The Bill was to amend the *Monitoring Places of Detention (Optional Protocol to the Convention against Torture) Act 2018* (ACT), to provide for the establishment and functions of the ACT NPM. The ACT NPM [welcomed the proposed amendments](#), which were passed in August 2024.

The ACT NPM also engaged with the ACT Government during its development of a response to OPCAT-related recommendations from the Disability Royal Commission.

*Capacity building* – In September 2023, ACT NPM staff were trained in trauma-informed engagement with children and young people by the Australian Childhood Foundation. Over three days in February 2024, ACT NPM staff undertook Advanced Investigative Training for Oversight Bodies, delivered by the Ontario Ombudsman and hosted by the Tasmanian Commissioner for Children and Young People. ACT NPM members also attended an OPCAT Symposium, hosted by the Tasmanian NPM in March 2024.

## ACT Human Rights Commission

The ACT HRC undertook several further activities pursuant to its role as part of the ACT NPM during the reporting period. These included:



ACT HUMAN RIGHTS  
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*Visits* – In November 2023, ACT HRC staff conducted an NPM familiarisation visit to an in-patient mental health setting within the ACT that serves a vulnerable consumer group. The visit considered the design and adequacy of seclusion and de-escalation spaces, and policies relating to access to leave, education and personal items. In June 2024, a visit was undertaken to an in-patient adult mental health facility with a focus on the unclear status of the facility as a secure facility, leave, programs and transition arrangements. An ACT HRC staff member also participated in two joint NPM visits to ACT Policing facilities, undertaken by the ACT and Commonwealth Ombudsman, as an observer (noted below).



*Promoting awareness* – In response to feedback and to promote awareness of the ACT NPM, the ACT HRC has developed and, from December 2023, disseminated informational flyers about OPCAT for detained people and service providers. In 2023–24, ACT HRC staff also presented about the ACT NPM and its OPCAT mandate in human rights training to 55 incoming corrections officers and youth justice workers over five separate workshops.

*Legislation and policy* – The ACT HRC also continued to review operational policies and procedures of places of detention and provide feedback based in human-rights principles, including on behalf of the ACT NPM as relevant.

*Capacity building* – In addition to the training and information-sharing opportunities discussed above, ACT HRC staff continued to develop capacity in preventive monitoring methodologies.

More information on the work of the ACT HRC in 2023–24 can be found in [their Annual Report here](#).

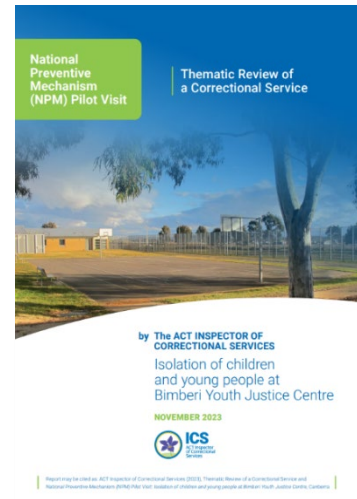


## ACT Office of the Inspector of Custodial Services



Along with other members of the ACT NPM, in 2023–24 ACT OICS contributed to the development of a number of public statements, submissions and other resources relevant to their work as an NPM. More information is available on [their website here](#).

During the reporting period, ACT OICS tabled the thematic review: *Isolation of children and young people at Bimberi Youth Justice Centre*. This is the first thematic review at Bimberi conducted by ACT OICS since the Inspector’s role expanded to include youth detention in 2019. This review also served as a pilot NPM visit.



The purpose of conducting this visit as a pilot was to develop and test aspects of NPM visit methodology (for example, conducting the visit as a quasi-unannounced visit), to raise awareness about OPCAT primarily among staff, and to determine a realistic estimate of the cost involved in conducting an NPM-style thematic visit. To provide a benchmarking tool specifically about human rights standards relating to isolation of children and young people in detention, ACT OICS prepared and published ACT OICS’ Youth Detention Isolation Expectations.

ACT OICS also updated the ACT Standards for Youth Detention Places and produced a youth friendly version.

More information on the work of ACT OICS in 2023–24 can be found in [their Annual Report here](#).

## ACT Ombudsman

In December 2023, ACT Ombudsman staff conducted a joint NPM visit with the Commonwealth NPM to the Jervis Bay Police Station, along with an ACT Human Rights Commission observer. ACT Policing provides community policing services in the Jervis Bay Territory, and this joint visit was undertaken as part of the Commonwealth NPM and ACT Ombudsman teams' role monitoring places of detention under the joint control of the Australian Federal Police (AFP) and the ACT Government. The post visit summary (PVS) of this visit [is available here](#).

In June 2024, along with the Commonwealth NPM the ACT Ombudsman also published a PVS of its joint visit to the ACT Police Watch House, conducted jointly with the Commonwealth NPM and with other ACT NPM members observing. Also published was the PVS of the ACT Ombudsman's joint visit with the Commonwealth NPM to four ACT Police Stations. Both PVSs [are available here](#).

More information on the work of the ACT Ombudsman in 2023–24 can be found in [their Annual Report here](#).



OMBUDSMAN AN OFFICER OF  
THE ACT LEGISLATIVE ASSEMBLY 



## Commonwealth

### Commonwealth NPM



The Commonwealth NPM visited 17 detention facilities, including three sites under control of the Australian Federal Police (AFP), three under control of the Australian Defence Force (ADF), and 11 under control of the Australian Border Force (ABF), one of which was the sea-going Australian Defence Vessel *Ocean Protector*.

Following these visits, the Commonwealth NPM made 56 recommendations for improvement, of which 48 (86%) were accepted - 100% by the ADF, 98% by the AFP, and 76.5% by the Department of Home Affairs. These recommendations addressed concerns across our five key indicators including illicit substances in immigration detention, ligature points (Safety); use of force, privacy and dignity (Respect); Purposeful Activity; food quality (Wellbeing and Social Care); and access to healthcare (Physical and Mental Health).

The Commonwealth NPM remains committed to upholding human rights and preventing practices that could be considered degrading, cruel, or amounting to torture. Key recommendations focus on reducing family separations, addressing food

concerns, and limiting the use of force. The NPM also emphasizes the need for equitable access to services, ensuring detainees' safety and well-being without exposing them to further harm or trauma.

The Commonwealth NPM also considered the conditions of women in detention this year. As the Commonwealth NPM has noted in previous years, women in immigration detention continue to endure reduced access to services, and are subjected to greater movement restrictions than their male counterparts. The long-term detention of women is only available in small compounds at Villawood, Melbourne and Perth Immigration Detention Centres, where the Commonwealth NPM found that women who were detained had poorer access to the facilities and services available at each site.

Visits to policing localities<sup>129</sup> in this reporting period identified shortfalls in the availability of women officers in some areas, particularly in regard to the conduct of pat searches for women being detained. Both the Nelson Mandela Rules and the Bangkok Rules require that people who identify as female shall only be attended and supervised by female staff.

More information on the work of the Commonwealth NPM in 2023–24 can be found in [their Post Visit Summaries here](#).

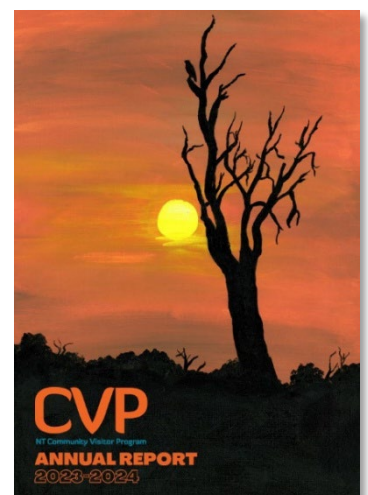
## Northern Territory

### NT Community Visitor Program

The NT Principal Community Visitor has not been formally appointed as an NPM monitor for the NT. As such, their capacity to conduct NPM-specific work in accordance with OPCAT is limited.

The NT Community Visitor Program (NT CVP) is responsible for safeguarding the rights of people receiving treatment for mental illness or disability under the *Mental Health and Related Services Act 1998* (NT) and *Disability Services Act 1993* (NT). Community visitors regularly visit NT Approved Treatment Facilities (ATFs), which are the tertiary mental health inpatient facilities in Darwin and Alice Springs. Additionally, they inspect Approved Treatment Agencies (ATAs), which are community-based tertiary mental health services.

In the disability space, the NT CVP conducts quarterly visits to appropriate residential places for people living in disability forensic settings under Part IIA of the *Criminal Code Act 1983* (NT). Previously, the



NT CVP carried out routine inspections of the Secure Care Facility (SCF) in Alice Springs. The SCF was purpose built to provide direct care services for people who have been found unfit to stand trial, or have been found not guilty by reason of mental impairment and are then subject to custodial and non-custodial supervision orders under Part IIA of the *Criminal Code Act 1983* (NT). However, in April 2024, NT CVP were informed that the Secure Care Facility would no longer be coordinated by the NT Health Forensic Disability Unit (FDU) and would be repurposed. Operational delegation would be transferred to NT Correctional Services for use as a women's prison. People previously ordered to be placed in SCF would generally have complex needs, often including a dual-diagnosis of disability and mental illness, and require 24/7 residential care, intensive therapeutic interventions and person-centred support. The NT CVP raised concerns regarding the future plans for persons under Part IIA orders and were reassured that these individuals would continue to receive appropriate care.

Additionally, during this reporting period, the NT CVP conducted one visit to the Complex Behavioural Unit (CBU) at Darwin Correctional Facility, which was gazetted as an ATF under section 20(1)(a) of the *Mental Health and Related Services Act 1998* (NT) in 2022. The NT CVP welcomed the legislative move, however, to date, the NT CVP have been informed that CBU continues to be managed and staffed by NT Department of Corrections who are responsible for day to day operations within CBU. The NT Health FDU provides in-reach services to persons with complex cognitive disabilities who are under Part IIA orders in CBU. The NT CVP continues to have concerns about the current arrangement due to the lack of access to appropriate therapeutic care for individuals with complex cognitive disabilities, as Corrections staff are not trained to work in this area.

The NT CVP's visit to CBU was also used to identify costs for regulatory oversight. The NT CVP have made the difficult decision that we do not have financial or resource capacity to visit regularly. Oversight of another ATF would place further pressures on an already stretched and under resourced program. This is unfortunate as places of restriction require oversight but must be supported and resourced accordingly to ensure sustainability of visitation and resolution to enquiries and complaints.

In 2023–24, the NT CVP completed 154 visits and inspections within their existing framework and capacity of 2.5 full time equivalent staff.

More information on the work of the NT CVP in 2023–24 can be found in [their Annual Report here](#), and [its appendix here](#).

## NT Office of the Children’s Commissioner

Progress to operationalise and commence OPCAT legislation in the NT has stalled. Further, the NT OCC has received no additional funding or resources to carry out its nominated NPM functions.



The NT OCC is the external oversight body for youth detention and child protection in the NT. While the NT OCC accepts complaints from vulnerable children and has a legislative monitoring role in child protection, it does not have equivalent monitoring powers in relation to youth justice. While awaiting the progress of legislative amendments to achieve this reform since 2019, the NT OCC has conducted monitoring activities under existing broad legislative provisions. This includes monitoring of youth detention centres, supported bail accommodation and residential care facilities.



During 2023–24, the NT OCC conducted 30 informal monitoring visits to youth detention centres. Children and young people raised over 300 individual issues or concerns regarding conditions and treatment within the facilities. Separation practices continue to be a top concern for young people living in detention with 58 young people separated a total 217 times. More information about the informal monitoring visits can be [read here](#).

For the majority of the 2023–24 period, the Alice Springs Youth Detention Centre underwent refurbishments, resulting in the majority of detained children from the Alice Springs/Barkly region being transferred to Darwin. Multiple service providers raised concerns about the lack of consultation to inform the planning and preparation for transfers. The NT OCC undertook an inquiry into the planning and implementation of the Alice Springs Youth Detention Centre Reduced Capacity Operational Plan. Part one of the investigation found governance and planning documents were inadequate, an operational plan, risk register and communication strategy were not finalised or endorsed ahead of transfer, consultation and information provision to stakeholders was inadequate and decision-making was not documented. The full report will be published in 2024–25.

The NT OCC continues to be an active participant in the Australian NPM and values the collaborative information sharing, presentations and joint work prepared about issues which cut through jurisdictions and sectors.

## NT Ombudsman



Implementation of OPCAT continues to be limited, due to lack of funding. Short term funding was provided by the NT Government to the NT Ombudsman as Interim NT NPM but there is, as yet, no ongoing funding. NT NPMs are continuing to pursue ongoing funding with the NT Government.

During 2023–24, the NT NPMs undertook functions preparatory or complementary to the NPM role. For the NT Ombudsman, this included:

- actively participating in the Australian National Preventive Mechanism
- contributing to various joint statements and submissions with Australian NPM members
- attending information sessions on the role of NPMs and topics of specific interest
- consulting with a range of stakeholders.



NT Ombudsman officers also undertook ad hoc visits to adult correctional facilities to speak with prisoners about conditions and their experiences in those facilities.

This included visits to a number of police facilities that are being utilised by NT Correctional Services as short-term holding facilities for prisoners. The NT Ombudsman also took the opportunity to speak with prison staff and leadership about prisoner management, emerging or systemic issues of concern and the role of the NT Ombudsman under OPCAT.

During the period, the NT Ombudsman finalised a detailed report for the NT Commissioner of Corrections which covers various themes arising from visits and complaints. This formed a basis for ongoing discussion with the Commissioner and NT Correctional Services around the treatment and care of prisoners.

In addition, the NT Ombudsman finalised [an own initiative investigation into separate confinement practices in Darwin Correctional Centre](#) under the *Ombudsman Act 2009* (NT).

More information on the work of the NT Ombudsman in 2023–24 can be found in [their Annual Report here](#).

## South Australia



### South Australian Official Visitor Scheme

During the reporting year, the SA official visitors continued their activity in accordance with Part 3, Division 2 of the *Correctional Services Act 1982* (SA), which establishes the official visitor scheme. Broadly this involved visit activity to SA correctional institutions to, among other things, receive complaints from people detained, advocate for them and promote their best interests.

Official visitors reported on various issues identified in the course of their activity, including through their discussions with people detained and complaints raised by them. These included issues with medical treatment, access to lawyers, lost property, visits, and available programs and education.

Along with observations and recommendations on substantive detention matters, official visitors also noted shortcomings with the official visitor scheme itself and the implementation of OPCAT in SA. While the legislated scope of current and potential official visitor activity is extensive, resourcing for the scheme is insufficient. At the time of reporting there are also multiple official visitor position vacancies, which places further pressure on the existing official visitors and the work required of them. The majority of official visitors also maintain other employment while performing their role.

There are also questions about the scheme's independence. For example, official visitors charge their work – initially a half or full day rate, now an hourly rate – to the SA Department for Correctional Services (SA DCS) itself. SA DCS has at times questioned the validity of the work being charged for by the official visitors, and has now determined that official visitors are no longer able to charge for work engaging with the Australian NPM. SA DCS's apparent view is that collaboration with members of the Australian NPM is or is now outside official visitors' role – a backward step from the scheme's initial intention which was to meet OPCAT requirements.

One official visitor compared the SA official visitor scheme unfavourably to interstate custodial inspector bodies, reflecting that the SA scheme's current model is unsustainable and recommending its thorough review. As well as calling for the reintroduction of legislation into SA which would meet the requirements of OPCAT, official visitors continue to call for adequate resourcing to ensure the scheme's effective operation.

More information on the work of the SA official visitors in 2023–24 can be found in [their individual tabled Annual Reports on the SA Parliament website here](#).

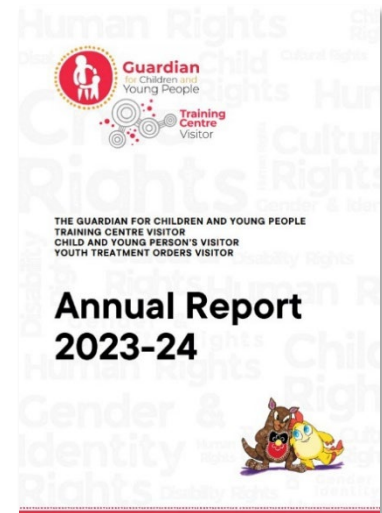
## South Australian Training Centre Visitor

In January 2022, the SA TCV was administratively nominated as an NPM for children and young people in youth detention facilities by the SA Government, but is yet to commence functions, pending funding and enabling legislation. In a nominal role, the SA TCV participates actively in Australian NPM meetings.



The SA TCV is an independent statutory officer established under the *Youth Justice Administration Act 2016 (SA)* (YJA Act). Shona Reid was appointed to the role in August 2022, for a period of five years.

The SA TCV also holds three additional statutory appointments, as the Guardian for Children and Young People, Child and Young Person's Visitor, and Youth Treatment Orders Visitor. Through these mandates, Ms Reid promotes and advocates for the rights and best interests of children and young people in care and youth detention, in addition to providing systemic oversight of these systems.



The SA TCV's statutory functions are a responsive mechanism (as opposed to a preventive mechanism) whereby they conduct visits and inspections to training centres; promote the best interests of young people detained in training centres and act as an advocate for them, particularly with respect to their care, treatment and control; advise the SA Minister for Human Services about systemic reform required to improve the care, treatment and control of young people detained or the management of the Centre; and inquire into and investigate matters referred by the Minister.

There is a close alignment in ideologies between the SA TCV's statutory functions under the YJA Act and an OPCAT NPM's responsibilities. However, as the YJA Act does not contain any reference to OPCAT or establish separate NPM functions, the SA TCV's nomination is fundamentally incompatible with OPCAT requirements.

In performing her functions, the SA TCV was supported by 3.0 FTE in the reporting year. A significant proportion of these resources are directed towards responsive matters including individual advocacy matters, which leaves limited resourcing available for work with a preventive focus. The SA TCV continues to undertake statutory functions stipulated under the YJA Act, and in the absence of dedicated resourcing, is not undertaking any separate functions with an OPCAT focus.

It is important to highlight that the SA TCV's mandate is limited to 'training centres', of which SA has one relevant facility (the AYTC). The TCV's mandate is restricted to young people who are physically within that facility – rather than based on their



status as a young person detained, in the custody of the Minister for Human Services. This means that children and young people in SA who are deprived of their liberty in places such as police cells, police vehicles and hospitals do not have access to independent oversight from a child-focused body. Since late 2017, the SA TCV has called for a review of the YJA Act to address this legislative barrier (among other matters), with no success.

In the 2023–24 reporting period, it remained the case that without appropriate legislation and resources, it was not possible to undertake the NPM function as intended.

More information on the work of the SA TCV in 2023–24 can be found in [their Annual Report](#).

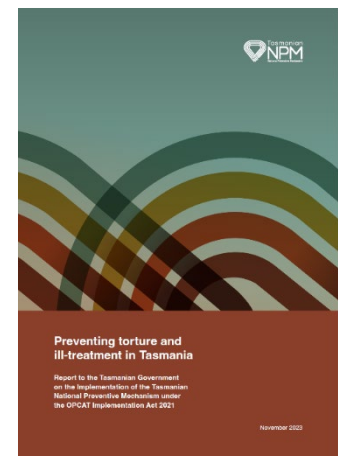
## Tasmania

### Tasmanian NPM

During the 2022–23 Financial Year, the Tasmanian NPM was resourced \$425,000 by the Tasmanian Government to commence work implementing the Office of the Tasmanian NPM. Under the 2023–24 Tasmanian Budget, the Tasmanian NPM received further resourcing of \$700,000 to continue this work, bringing the total contribution by the Tasmanian Government to about \$1.15 million. This represents the single largest financial contribution to date by an Australian government in relation to OPCAT implementation.

From September 2022 to September 2023, the Tasmanian NPM Implementation Project team engaged with subject matter experts, as well as NPM counterparts in other countries, to understand how to design a new NPM and how different NPM frameworks have operated in practice. To develop an implementation approach best suited to Tasmania, the project team completed multiple rounds of community and stakeholder consultation. This enabled the office to learn about the issues that will need to be addressed if the Tasmanian NPM is to build trust and succeed in preventing torture and ill-treatment.

In November 2023 the Tasmanian NPM, Mr Richard Connock, presented his implementation report, *Preventing torture and ill-treatment in Tasmania*, to the Tasmanian Government and public.<sup>130</sup> The report makes eight recommendations to government, designed to establish an NPM that is best suited to Tasmania, fully independent, and which will work closely with civil society.



Accompanying these recommendations, the report detailed the results of comprehensive organisational design, governance, and strategic planning, and corresponding budget calculations.

Mr Connock also announced in his report all visits by the Tasmanian NPM and related activities will be underpinned by publicly available expectations and policies. Included in the report were four draft ‘expectations’ documents, each of which was developed with the assistance of leading state, national, and international subject-matter experts:<sup>131</sup>

- Adult Custody Centres
- Police and Court Cells
- Children and Young People
- Mental Health

These documents are the first OPCAT examination standards to be developed by an Australian NPM body. The Mental Health specific document, led by international experts Sarah Cooke OBE and Louise Finer, is also one of the first to be developed globally focusing on people deprived of their liberty in secure mental health facilities and hospitals, establishing the Australian NPM as a valuable contributor to the global NPM network—notwithstanding its relative nascency.

The expectations documents follow a format commonly used by many NPM bodies globally, describing in plain terms how the Tasmanian NPM expects people to be treated to ensure that international human rights standards are met. The Tasmanian NPM intends to use these documents to support administrators, government, and the community to create organisational cultures and practices that promote best practice human rights in places where people are deprived of their liberty.

Following the release of this report, the Tasmanian NPM has continued to progress implementation work on the final component of this implementation project, focusing on the application of the Tasmanian NPM’s mandate to health and social care environments. This work includes consideration of disability support and aged residential care settings, with a particular focus on private sector service providers and the use of restrictive practices. Importantly, this final component of the project will aim to provide recommendations that enable the office to operate in compliance with recommendations 8.2, 11.7, 11.11, 11.16 of the Disability Royal Commission. This includes the development of relevant health and social care expectations. The results of this work will be released as a supplementary report to the November 2023 report.

In addition to the implementation activities of the Tasmanian NPM, the Office of the Tasmanian Custodial Inspector continued its existing work inspecting Tasmania’s custody centres and youth detention facilities.

More information on the work of the Tasmanian Custodial Inspector in 2023–24 can be found in [their Annual Report here](#). More information on the work of the Tasmanian Ombudsman in 2023–24 can be found in [their Annual Report here](#).

## Western Australia

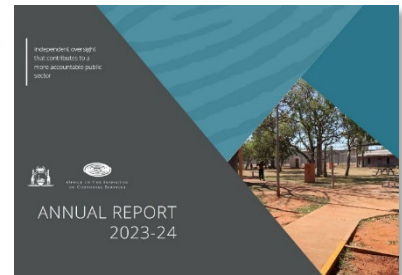


### WA Office of the Inspector of Custodial Services

There has been no progress towards the implementation of WA OICS' OPCAT remit over the past financial year.

WA OICS continues to perform its statutory functions in relation to inspecting and reviewing adult and youth custodial facilities, court custody centres and prescribed lock-ups. WA OICS has continued to conduct monitoring visits to all custodial facilities in addition to mandated inspections.

More information on the work of WA OICS in 2023–24 can be found in [their Annual Report here](#).



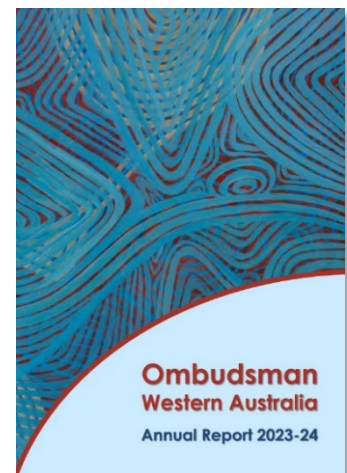
### WA Ombudsman

In July 2019, the WA Ombudsman was nominated as an NPM for the oversight in WA of mental health and other secure facilities. The WA Ombudsman is yet to commence its NPM functions, pending funding and enabling legislation.

The WA Ombudsman nonetheless continues to undertake its functions under the *Parliamentary Commissioner Act 1971* (WA), with 2023–24 being the first full year of the Reportable Conduct Scheme (the Scheme). The Scheme requires heads of organisations to notify allegations of, or convictions for, child abuse by their employees to the WA Ombudsman and then investigate these allegations. The WA Ombudsman monitors, oversees and reviews these investigations. The Scheme applies to organisations that exercise care, supervision or authority over children, including providers of youth justice services, out-of-home care services and health services.

The WA Ombudsman also continues to undertake proactive visiting programs to vulnerable children in the child protection system and juvenile detention centre, and to all WA prisons. These visits provide an opportunity for those in prison and youth detention to meet with representatives of the Office of the WA Ombudsman and lodge complaints in person.

More information on the work of WA Ombudsman in 2023–24 can be found in [their Annual Report here](#).



## Endnotes

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<sup>1</sup> This made Tasmania the second state or territory to accept time-limited *Closing the Gap* funding from the Australian Government for OPCAT implementation, [after the ACT in 2022](#).

<sup>2</sup> Western Australian Office of the Inspector of Custodial Services (WA OICS), [Annual Report 2023–24](#), page 2.

<sup>3</sup> Northern Territory Office of the Children’s Commissioner (NT OCC), [Our most vulnerable children bearing the consequences of a failed system: A thematic analysis of the needs of children aged 10 to 13 in Northern Territory youth detention 2022/23](#) (2024) (‘Our most vulnerable children’), page 4.

<sup>4</sup> NT OCC, *Our most vulnerable children*, page 48.

<sup>5</sup> Australian Human Rights Commission, [‘Help way earlier!’: How Australia can transform child justice to improve safety and wellbeing](#) (2024).

<sup>6</sup> ACT: [Justice \(Age of Criminal Responsibility\) Legislation Amendment Act 2023](#) (ACT).

Victoria: [Youth Justice Act 2024](#) (Vic).

Tasmania: Tasmanian Government, [Youth Justice Blueprint 2024–2034](#) (December 2023), page 5.

NT: [Criminal Code Amendment \(Age of Criminal Responsibility\) Act 2022](#) (NT).

<sup>7</sup> Committee on the Rights of the Child, [Concluding Observations on the combined fifth and sixth periodic reports of Australia](#), UN Doc CRC/C/AUS/CO/5-6 (1 November 2019), page 14; see also Committee on the Rights of the Child, [General comment No. 24 \(2019\) on children’s rights in the child justice system](#), CRC/C/GC/24 (18 September 2019), pages 6-7.

<sup>8</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission), [Final Report Volume 8](#) (September 2023), recommendation 8.22.

<sup>9</sup> South Australian Training Centre Visitor (SA TCV), [Media release: Children and young people in detention speak out about Raising the Age](#) (29 April 2024), page 2.

<sup>10</sup> Standing Council of Attorneys-General, [Age of Criminal Responsibility Working Group Report](#) (September 2023), page 23.

<sup>11</sup> Australian Bureau of Statistics (ABS), [Prisoners in Australia, 2024](#) (19 December 2024), table 2; ABS, [Estimates of Aboriginal and Torres Strait Islander Australians, 2021](#) (31 August 2023).

<sup>12</sup> ABS, [Prisoners in Australia, 2024](#), table 17 (age-standardised rate).

<sup>13</sup> ABS, [Prisoners in Australia, 2024](#), table 17 (age-standardised rate).

<sup>14</sup> ABS, [Prisoners in Australia, 2024](#), table 2.

<sup>15</sup> Australian Institute of Health and Welfare (AIHW), [Youth detention population in Australia 2024](#) (13 December 2024), tables S1, S11.

<sup>16</sup> AIHW, [Youth detention population in Australia 2024](#), table S18.

<sup>17</sup> NT OCC, *Our most vulnerable children*, pages 5, 20.

<sup>18</sup> [United Nations Standard Minimum Rules for the Treatment of Prisoners](#), A/RES/70/175 (17 December 2015), rule 44 (‘Nelson Mandela Rules’).

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<sup>19</sup> Nelson Mandela Rules, rule 43.1(a), (b). Prolonged solitary confinement is that in excess of 15 consecutive days: Nelson Mandela Rules, rule 44.

<sup>20</sup> Human Rights Committee, *General Comment No. 20 (1992) on Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment)*, 44<sup>th</sup> sess, paragraph 6.

<sup>21</sup> [United Nations Rules for the Protection of Juveniles Deprived of their Liberty](#), GA Res 45/113 (14 December 1990), rule 67 ('Havana Rules').

<sup>22</sup> [International Covenant on Civil and Political Rights](#), opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), article 7 ('ICCPR'); [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987), articles 2, 16(1) ('CAT').

<sup>23</sup> Nelson Mandela Rules, rule 36.

<sup>24</sup> For example, adults as well as children and young people in detention should have suitable time daily for exercise (in the open air, weather permitting), and adequate means of contact with the outside world: Nelson Mandela Rules, rules 23.1, 58.1; Havana Rules, rules 47, 59-62.

<sup>25</sup> Australian Capital Territory Office of the Inspector of Custodial Services (ACT OICS), [Thematic Review of a Correctional Service: Isolation of children and young people at Bimberi Youth Justice Centre](#) (November 2023) ('Isolation Report'). This review also led to the development of ACT OICS' [Children and Young People Detention Expectations – Isolation \(2023\)](#).

<sup>26</sup> ACT OICS, Isolation Report, page 6.

<sup>27</sup> ACT OICS, Isolation Report, pages 24-5.

<sup>28</sup> SA TCV, [Annual Report 2023-24](#), pages 36-7.

<sup>29</sup> SA TCV, Annual Report, pages 36-7.

<sup>30</sup> NT OCC, [Annual Report 2023-24](#), pages 56-7.

<sup>31</sup> NT OCC, Annual Report, page 57.

<sup>32</sup> NT OCC, Annual Report, page 59.

<sup>33</sup> NT OCC, Annual Report, page 57.

<sup>34</sup> NT Ombudsman, [Separate Confinement – A Thematic Investigation into Practices in Darwin Correctional Centre](#) (May 2024), page 50 ('Separate Confinement').

<sup>35</sup> NT Ombudsman, Separate Confinement, page 51.

<sup>36</sup> NT Ombudsman, Separate Confinement, page 51.

<sup>37</sup> NT Ombudsman, Separate Confinement, page 53.

<sup>38</sup> NT Ombudsman, Separate Confinement, page 59.

<sup>39</sup> NT Ombudsman, Separate Confinement, page 60.

<sup>40</sup> Tasmanian Custodial Inspector (Tasmanian CI), [Inhumane treatment in dry cells – review report](#) (2024), pages 33-4 ('Dry Cells').

<sup>41</sup> Tasmanian CI, Dry Cells, pages 34-6.

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- <sup>42</sup> Tasmanian CI, [Annual Report 2023–24](#), pages 8–9.
- <sup>43</sup> Tasmanian CI, Annual Report, page 9.
- <sup>44</sup> WA OICS, Annual Report, page 37. The publication of WA OICS’ report on its inspection of Hakea Prison is forthcoming.
- <sup>45</sup> WA OICS, Annual Report, pages 28–9.
- <sup>46</sup> Tasmanian CI, Annual Report, page 7.
- <sup>47</sup> Tasmanian CI, Annual Report, page 7.
- <sup>48</sup> Tasmanian CI, Annual Report, page 8; see for more detail Tasmanian CI, [Adult health care inspection report](#) (2023), page 7 (‘Adult Health Care’).
- <sup>49</sup> Tasmanian CI, Annual Report, page 10.
- <sup>50</sup> ABS, [Prisoners in Australia, 2024](#), table 2.
- <sup>51</sup> ABS, [Prisoners in Australia, 2024](#), table 2.
- <sup>52</sup> WA OICS, Annual Report, page 2.
- <sup>53</sup> WA OICS, Annual Report, page 2.
- <sup>54</sup> WA OICS, Annual Report, page 23.
- <sup>55</sup> WA OICS, Annual Report, page 28.
- <sup>56</sup> WA OICS, Annual Report, page 28.
- <sup>57</sup> WA OICS, Annual Report, page 28.
- <sup>58</sup> WA OICS, Annual Report, page 24; WA OICS, [Report 154 – 2023 Inspection of West Kimberley Regional Prison](#) (May 2024), page 10.
- <sup>59</sup> ABS, [Prisoners in Australia, 2024](#), table 2.
- <sup>60</sup> ABS, [Prisoners in Australia, 2024](#), table 2; online summary.
- <sup>61</sup> Tasmanian CI, Annual Report, pages 10–11.
- <sup>62</sup> WA OICS, Annual Report, page 2.
- <sup>63</sup> WA OICS, Annual Report, page 23.
- <sup>64</sup> NT Ombudsman, [Annual Report 2023–24](#), pages 63–5.
- <sup>65</sup> SA TCV, [Kids in police cells: time to upgrade our facilities, and our thinking](#) (17 November 2023).
- <sup>66</sup> Non-custodial staff are those who deliver services and supports to people in detention relating to matters such as health, education and reintegration.
- <sup>67</sup> WA OICS, Annual Report, page 2.
- <sup>68</sup> WA OICS, Annual Report, pages 28–9.
- <sup>69</sup> WA OICS, Annual Report, page 27.
- <sup>70</sup> Northern Territory Community Visitor Program (NT CVP), [Annual Report 2023–24](#), pages 11, 17.
- <sup>71</sup> NT CVP, Annual Report, page 17.

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<sup>72</sup> Commonwealth National Preventive Mechanism (Commonwealth NPM), [Post Visit Summary – Cocos \(Keeling\) Islands Police Station](#) (2 August 2024), pages 15-6 ('Cocos (Keeling) Islands PVS'). Under international human rights standards, searches on women should be carried out only by women staff: [United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders](#), A/RES/65/229 (21 December 2010), rule 19 ('Bangkok Rules').

<sup>73</sup> SA official visitor – Aaron Cooke, *Annual Report 2023–24*, page 17.

<sup>74</sup> SA official visitor – Aaron Cooke, *Annual Report*, pages 17-18.

<sup>75</sup> SA official visitor – Aaron Cooke, *Annual Report*, pages 17.

<sup>76</sup> SA official visitor – Aaron Cooke, *Annual Report*, pages 17.

<sup>77</sup> SA official visitor – Aaron Cooke, *Annual Report*, pages 17.

<sup>78</sup> SA TCV, *Annual Report*, pages 36-7.

<sup>79</sup> SA TCV, *Annual Report*, pages 36-7.

<sup>80</sup> Tasmanian CI, *Annual Report*, page 12.

<sup>81</sup> WA OICS, *Annual Report*, pages 26-7.

<sup>82</sup> Productivity Commission, *Report on Government Services* [chapter 8 – corrective services](#), [chapter 17 – youth justice services](#).

<sup>83</sup> ACT OICS, *Isolation Report*, page 43.

<sup>84</sup> ACT OICS, *Isolation Report*, page 42.

<sup>85</sup> ACT OICS, *Isolation Report*, page 43.

<sup>86</sup> Tasmanian CI, *Annual Report*, page 39.

<sup>87</sup> Tasmanian CI, *Annual Report*, page 13.

<sup>88</sup> SA TCV, *Annual Report*, page 41.

<sup>89</sup> Tasmanian CI, *Annual Report*, pages 14-16.

<sup>90</sup> NT Ombudsman, *Annual Report*, page 11.

<sup>91</sup> NT Ombudsman, *Separate Confinement*, page 48.

<sup>92</sup> WA OICS, [Recording and reporting of self-harm and attempted suicides in custody](#) (April 2024), page 6 ('Self-harm and Attempted Suicides Review').

<sup>93</sup> WA OICS, *Self-harm and Attempted Suicides Review*, page 6.

<sup>94</sup> Commonwealth NPM, [Post Visit Summary – Christmas Island Police Station](#) (5 August 2024), pages 21-2; Commonwealth NPM, *Cocos (Keeling) Islands PVS*, page 21.

<sup>95</sup> Disability Royal Commission, *Final Report Volume 8*, page 4.

<sup>96</sup> *Convention on the Rights of Persons with Disabilities*, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008), articles 14(2), 15(1) ('CRPD').

<sup>97</sup> WA OICS, [People in custody with an intellectual disability](#) (July 2024), p viii ('Intellectual Disability Review').

<sup>98</sup> Commonwealth NPM and ACT Ombudsman, [Post Visit Summaries – ACT Policing Watch House and ACT Police Stations](#) (25 June 2024), page 26 ('ACT Watch House PVS').

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- <sup>99</sup> Commonwealth NPM and ACT Ombudsman, ACT Watch House PVS, pages 46-7.
- <sup>100</sup> WA OICS, Intellectual Disability Review, page viii.
- <sup>101</sup> WA OICS, Intellectual Disability Review, page 16.
- <sup>102</sup> Disability Royal Commission, Final Report Volume 8, recommendation 8.17; *Working together to deliver the NDIS – Independent Review into the National Disability Insurance Scheme – Final Report (2023)*, recommendation 2 / action 2.6 (‘NDIS Review’).
- <sup>103</sup> WA OICS, Annual Report, page 28. WA OICS drew these concerns from their inspections of Broome, Casuarina, Eastern Goldfields Regional, West Kimberley and Bunbury Prisons, and stated reports from further inspections will reinforce these findings.
- <sup>104</sup> WA OICS, Annual Report, page 28.
- <sup>105</sup> Tasmanian CI, Adult Health Care, page 254.
- <sup>106</sup> Tasmanian CI, Adult Health Care, page 254.
- <sup>107</sup> Tasmanian CI, Adult Health Care, page 129.
- <sup>108</sup> Tasmanian CI, Adult Health Care, page 130.
- <sup>109</sup> NT OCC, Annual Report, page 59.
- <sup>110</sup> NT OCC, Annual Report, page 59.
- <sup>111</sup> SA official visitor – Lauren Messmer, *Annual Report 2023–24*, p 3.
- <sup>112</sup> SA official visitor – Lauren Messmer, Annual Report, page 6.
- <sup>113</sup> SA official visitor – Aaron Cooke, Annual Report, page 22.
- <sup>114</sup> SA official visitor – Aaron Cooke, Annual Report, pages 22-3.
- <sup>115</sup> SA official visitor – Aaron Cooke, Annual Report, page 23.
- <sup>116</sup> SA official visitor – Aaron Cooke, Annual Report, page 23; SA official visitor – Lauren Messmer, Annual Report, page 6.
- <sup>117</sup> ACT OICS, Isolation Report, page 21.
- <sup>118</sup> NT Ombudsman, Separate Confinement, page 59.
- <sup>119</sup> NT Ombudsman, Separate Confinement, page 60.
- <sup>120</sup> NT CVP, Annual Report, pages 11, 17.
- <sup>121</sup> NT Ombudsman, Annual Report, pages 62-3. NTCS advised NT Ombudsman it is working through plans to progressively address heat mitigation, but ASCC does not currently have the electrical capacity for an evaporative cooling system, and so preparatory upgrades are required first.
- <sup>122</sup> NT Ombudsman, Annual Report, pages 62-3.
- <sup>123</sup> Commonwealth NPM, Cocos (Keeling) Islands PVS, pages 20-21.
- <sup>124</sup> Nelson Mandela Rules, rule 13.
- <sup>125</sup> This case study is adapted from WA OICS, Annual Report 2023–24, pp 37-8.
- <sup>126</sup> Under section 33A of the *Inspector of Custodial Services Act 2003 (WA)*, if the Inspector reasonably suspects a serious risk to security, control, safety, care or welfare; or the



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occurrence of cruel, inhuman or degrading treatment; the Inspector may give the head of the responsible department a written notice requiring them to show cause why the Inspector should not refer the matters to the Minister.

<sup>127</sup> OPCAT, article 1.

<sup>128</sup> According to the Subcommittee on Prevention of Torture, the four core functions of an NPM are its visiting, advisory, educational and cooperation functions. See United Nations Office of the United Nations High Commissioner for Human Rights, *Preventing Torture - the Role of National Preventive Mechanisms: A Practical Guide* (2018), page 6.

<sup>129</sup> See [Christmas Island PS PVS](#), [Cocos \(Keeling\) Islands PS PVS](#).

<sup>130</sup> Available to download at [www.npm.tas.gov.au](http://www.npm.tas.gov.au).

<sup>131</sup> Available to download at [www.npm.tas.gov.au](http://www.npm.tas.gov.au).

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