

Written contribution to List of
Issues Prior to Reporting
Seventh periodic report of
Australia under the International
Covenant on Civil and Political
Rights



28 May 2025

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Acknowledgment 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.

Introduction to the Australian NPM

We are members of the multi-body Australian NPM, established 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). Under OPCAT we support the prevention of torture and other ill treatment of people deprived of their liberty, by examining treatment and conditions in detention, and making recommendations for improvement.

This written contribution is made by the following Australian NPM members:

- Australian Capital Territory (ACT) Human Rights Commission
- ACT Office of the Inspector of Custodial Services
- ACT Ombudsman
- Commonwealth NPM
- Northern Territory (NT) Community Visitor Program

- NT Office of the Children’s Commissioner
- NT Ombudsman
- South Australian Training Centre Visitor
- Tasmanian NPM
- Western Australian (WA) Office of the Inspector of Custodial Services
- WA Ombudsman.

Our written contribution outlines a number of detention-related issues which we believe are relevant to the Committee’s consideration of Australia’s implementation of the *International Covenant on Civil and Political Rights* (ICCPR). These issues are not exhaustive but reflect key concerns of the Australian NPM, with a focus on Articles 7, 9 and 10 of the ICCPR.

Youth justice and detention

ICCPR ARTICLES 7, 9(1), 9(3), 10(1), 10(2)(a), 10(2)(b), 10(3)

Australia’s youth justice system persistently raises numerous human rights concerns. The Australian NPM has regularly raised concerns about youth justice and detention,¹ and this remains a key priority area of focus.

Australia’s National Children’s Commissioner, in her landmark *‘Help way earlier!’* report on youth justice in 2024, states that the treatment of children in Australia’s justice system “is one of the most urgent human rights issues facing Australia today”.² That report provides extensive recommendations for system reform moving away from traditional responses to youth justice, yet has not yet been responded to by government.

Other past Australian inquiries into youth justice have found that the detention of children does little to reduce recidivism.³ They have also commonly observed that detention of children in the youth justice system must be a last resort.⁴ Yet this latter principle is being eroded in different parts of Australia.

In Queensland, legislative changes in 2024 removed the sentencing principle that detention should only be used as a last resort, and now explicitly require a court, in sentencing, not to have regard to any principle that detention should only be imposed as a last resort.⁵ The Queensland Government has also conceded that further amendments just passed by the Queensland Parliament, to add a further 20 offences to the existing 13 in relation to which children will be sentenced as adults, are incompatible with human rights.⁶ For some of the new offences, the maximum penalty for a child will increase to life detention. For those offences, if a child is sentenced to life, they will be subject to the same 15-year mandatory minimum non-parole period that applies to an adult.⁷

In March 2025, amendments to bail laws in Victoria removed the requirement for bail decision makers to take into account that the remand of a child be a last resort.⁸ In May 2025, in the NT the principle of detention as a last resort was removed from youth justice legislation in the course of bail law amendments.⁹ Meanwhile, overall across Australia, the number of children in unsentenced detention has increased.¹⁰

Children also continue to be detained in police watch houses in parts of Australia,¹¹ facilities which are not designed for children and which are highly unsuitable for them. Detention of children in watch houses is a common occurrence in Queensland, where laws were amended in 2023 to override

aspects of the state's human rights legislation and make the practice lawful.¹² Reporting on the widespread use of police watch houses in Queensland for detaining children has revealed various alarming incidents, including alleged sexual assault, use of force as a means of behavioural control, and injury to an Aboriginal and/or Torres Strait Islander girl with an intellectual disability.¹³ Police watch houses also provide limited, or in some cases no, ability for complete separation of children from adults.¹⁴

In the NT, where youth justice concerns are particularly acute, the NT Children's Commissioner has observed:

The Northern Territory youth justice system has remained at crisis point, and at a cross road, for the best part of a decade. High remand populations, failure to identify and respond to unmet health, mental health and disability needs of incarcerated children and failing infrastructure has led to ongoing issues within youth justice facilities.

We have observed ongoing conflict within these facilities, disturbances and incidents such as property damage, assaults, self-harming and suicidal ideation, combined with staffing issues and the resultant use of lockdowns, all impacting the safety, mental health and wellbeing of incarcerated children.¹⁵

In the ACT's youth detention centre, young people were prevented for several years from any physical contact with visitors.¹⁶ While this has a profound impact on all young people, Aboriginal and Torres Strait Islander young people are also disproportionately represented in the ACT youth justice system (as is the case in other Australian states and territories) and their detention often overlaps with involvement with care and protection services. Physical contact, whether it be through hugs, hand holding, or fostering deeper connections, is of paramount importance for Aboriginal and Torres Strait Islander children and young people. These forms of physical and emotional touch not only provide comfort and reassurance, but also play a significant role in healing past traumas and building resilience. For individuals who have often experienced a sense of disconnection and isolation due to historical injustices and ongoing systemic inequalities, these moments of contact can be transformative.

Raising the minimum age of criminal responsibility (MACR) in Australia presents a means of instead focusing on prevention and diversion of children whose behaviour presents risks of harm to themselves and/or others.¹⁷ Currently, the MACR in Australia remains too low.

In December 2023, the Standing Council of Attorneys-General (SCAG) – including the attorneys-general from Australian, state and territory governments – released the *Age of Criminal Responsibility Working Group Report*.¹⁸ This report acknowledged children in custody may have significantly higher rates of cognitive disability, and significant backgrounds of complex trauma. It also observed that by implementing a therapeutic support model, “[r]aising the MACR, coupled with an emphasis on strengthened supports that address the drivers of negative behaviours, is considered in the interests of medium- and longer-term community safety.”¹⁹ Yet despite this acknowledgment, the MACR currently remains at 10 years in most Australian jurisdictions.²⁰

Early intervention and diversionary opportunities are key not only to complement a raised MACR, but to reduce justice system interaction more broadly. While some approaches currently exist, there are shortcomings. For example, despite being a core part of the NT youth justice system, “[t]here are significant gaps in the availability and accessibility of diversion across the NT, particularly in regional and remote areas”.²¹ Further, rates of police diversion are higher for non-Indigenous Australians. For example in the ACT, 33% of non-Indigenous children received police diversions, but only 8% of Aboriginal and/or Torres Strait Islander children did.²²

Effective early intervention and diversionary approaches should be:

- culturally safe for Aboriginal and/or Torres Strait Islander people
- therapeutically- rather than punitively-focused
- designed and led by adequately funded Aboriginal Community Controlled Organisations
- accessible in all locations, including in regional and remote Australia
- provided at multiple stages, including through pre-trial and pre-sentence diversion, but also through community-based preventive approaches prior to any justice system contact, directed towards issues such as health and education.²³

We suggest the Committee ask the state party to report on:



- **plans to respond to and implement recommendations from the National Children's Commissioner's 'Help Way Earlier!' report, including in a coordinated manner at a national level**
- **ensuring the principle that detention of children is a last resort, is legislatively protected and respected in practice in all jurisdictions**
- **ending the detention of children in police watch houses and other facilities unsuitable for children, and ensuring children in custody are appropriately separated from adults**
- **plans to reduce the high rates of children held in detention on remand**
- **the status of work to raise the MACR, to ensure it reflects a minimum age of at least 14 years, without exceptions, across the country**
- **plans to increase access, including in practice, to adequately resourced early intervention and diversionary options for children.**

Immigration detention

ICCPR ARTICLES 9(1), 10(1)

Australia maintains its policy of mandatory immigration detention for all non-citizens who do not hold a valid visa. While the number of people held in immigration detention in Australia has reduced in recent years, the average time spent in immigration detention remains exceptionally high, at 458 days.²⁴ There are also 62 people who have been detained for more than 1825 days (5 years).²⁵ The various, compounding harms of prolonged immigration detention are well established.

In December 2024, the Australian Human Rights Commission (AHRC) reported on its thematic inquiry into complaints made against the Australian Government by 10 people formerly and currently in immigration detention.²⁶ While most of the people concerned had since been released from immigration detention, they had on average spent more than 10 years in immigration detention. The then President of the AHRC found that the Australian Government had breached their human rights pursuant to Article 9(1) of the ICCPR regarding arbitrary detention.

Further, while the number of children in immigration detention in Australia is currently low, it is not zero.²⁷ Australia's mandatory immigration detention policy continues to apply to people of all ages.

In November 2023, Australia's highest court ruled in the case of *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* (NZYQ).²⁸ The court held that immigration detention is unlawful if it is for the purpose of ensuring removal of the person from Australia but there is no real prospect of that removal occurring in the reasonably foreseeable future. This led to a large number of people being released from immigration detention, including some who had been detained for some years.

On 16 February 2025, the Australian Government announced that Nauru would resettle members of the NZYQ cohort as part of an agreement between the two countries.²⁹ Three members of this cohort were taken back into immigration detention pending their removal from Australia to Nauru. However, questions remain about this arrangement, and what it means for the people involved.³⁰

On offshore asylum seeker processing, Australia and Nauru recently concluded negotiations for long-term, multi-year funding for the regional processing centre in Nauru.³¹ As of 24 April 2025 there are 93 people on Nauru who have been transferred there for asylum processing, 4 of whom have been determined to be refugees and the remainder going through an appeals process.³²

The Commonwealth NPM has reported on concerns over the past year with the suitability of arrangements for women held in immigration detention. This included women having reduced access to services and being subject to greater movement restrictions than men, and being more likely to be transferred interstate due to a limited number of immigration detention facilities being able to hold women.³³ The Commonwealth NPM also reported on the physical infrastructure of facilities for women in some cases being not fit for purpose, including with consequences for safety and wellbeing of the women detained.³⁴

We suggest the Committee ask the state party to report on:



- **the continued policy of mandatory immigration detention of children**
- **plans for significantly reducing the average time spent in immigration detention in Australia including to address the risk of arbitrary detention, particularly for the 174 people held in immigration detention for more than 2 years, towards their release from detention**
- **long-term plans for the people impacted by the High Court of Australia decision in the NZYQ case including resettlement agreements with Nauru**
- **independent oversight of Australian Government-funded detention arrangements on Nauru as part of regional processing of asylum seekers**
- **appropriate facilities, services and supports for all women held in immigration detention.**

Incarceration of Aboriginal and/or Torres Strait Islander people

ICCPR ARTICLES 7, 10(1)

Aboriginal and/or Torres Strait Islander people – both adults and children – continue to be significantly overincarcerated in Australia. This is not a new crisis, but remains a persistent one, as

we have previously commented.³⁵ Aboriginal and/or Torres Strait Islander adults were 17.5 times more likely to be imprisoned than non-Indigenous adults.³⁶ Aboriginal and/or Torres Strait Islander children were 27 times more likely to be in detention than non-Indigenous children.³⁷

Further, despite targets under the *National Agreement on Closing the Gap* to reduce the rates of Aboriginal and/or Torres Strait Islander people in custody,³⁸ the number of Aboriginal and/or Torres Strait Islander people being detained in custody is increasing. Between 2023 and 2024, the number of Aboriginal and/or Torres Strait Islander adults imprisoned in Australia increased by 14.6 percent, when the number of non-Indigenous Australians imprisoned increased by only 1.3 percent.³⁹ In the NT, since December 2024 an average of 40 Aboriginal people are taken into custody daily, compared with 23 in January 2020.⁴⁰

Since the last periodic report of Australia under the ICCPR, there have been 151 deaths of Aboriginal and/or Torres Strait Islander people in custody from 2017–18 to 2023–24. There were 27 such deaths in the 2024 calendar year, and a further 8 deaths to date in 2025.⁴¹



We suggest the Committee ask the state party to report on:

- **why the numbers of Aboriginal and/or Torres Strait Islander people in detention are increasing**
- **progress of all Australian governments to address the continued overincarceration of Aboriginal and/or Torres Strait Islander people.**

Custodial population, remand and staffing

ICCPR ARTICLES 10(1), 10(2)(a)

In recent years there has been an increase in the number of unsentenced people being detained in prison in Australia, including a 13.2% increase from 30 June 2023 to 30 June 2024.⁴² Seventy four percent of children held in youth detention in the second quarter of 2024 were unsentenced, an increase from an already high 64% in the second quarter of 2020.⁴³ Among adult women in WA, the population of unsentenced non-Indigenous women increased by 11.5% between June 2023 and June 2024, while the population of unsentenced Aboriginal women increased by 50%.⁴⁴

Increases in adult custodial populations have in some cases placed remand facilities under immense pressure, including leading to overcrowding, increased lockdowns, and deterioration in conditions.⁴⁵ In the NT, a judge recently chose to suspend the prison sentence of a woman due in part to conditions they faced while held on remand at the Alice Springs police watch house, which the judge described as ‘disgusting’ and ‘inhuman’.⁴⁶

Unsentenced and sentenced people in custody are sometimes detained together,⁴⁷ and in some cases there may be minimal differences in treatment and conditions for the cohorts.⁴⁸

Staffing shortages – including both vacancies and unplanned absences – are a common problem in custodial facilities in Australia.⁴⁹ This has significant flow-on consequences for treatment and conditions, including impacting access to health services and time spent out of cell as well as broader wellbeing.⁵⁰



We suggest the Committee ask the state party to report on:

- **addressing the high and increasing numbers of unsentenced people being held in custody, and improving their conditions in custody**
- **measures to reduce high populations in custodial environments generally**
- **measures to address staffing challenges in custodial environments, including given flow-on impacts on treatment and conditions**
- **its plans for withdrawing its reservation to Article 10(2)(a) of the ICCPR regarding the segregation and differential treatment of unconvicted persons from people serving a sentence of imprisonment.**

Access to healthcare and disability support in custody

ICCPR ARTICLES 7, 10(1)

We have written previously about access to healthcare and disability support in custodial environments, and the impacts this has on the people detained.⁵¹

Half of people entering prison in Australia report a chronic health condition.⁵² Further, many people enter prison with undiagnosed health conditions or needs. Yet shortcomings of different kinds are impacting access to health services and positive health outcomes in custody in different parts of Australia, such as:

- chronic shortages of psychiatry services⁵³
- insufficient custodial staffing leading to people in custody being unable to attend healthcare centres or external medical appointments⁵⁴
- healthcare provision to Aboriginal and/or Torres Strait Islander people in prisons not meeting their needs, and/or not being culturally appropriate⁵⁵
- infrastructure shortcomings impacting therapeutic outcomes for people with mental health vulnerabilities⁵⁶
- gaps in meeting women's particular health and wellbeing needs due to workloads, limited cultural support and inadequate infrastructure.⁵⁷

Further, people in custodial environments do not have access to Australia's national, government-subsidised healthcare system, known as Medicare.⁵⁸ This is on the basis their healthcare needs are met by other means at a state and territory level. However, this can lead to disparities for people in custody, and can impact continuity of care including when transitioning out of custody back to the wider community.⁵⁹ No access to Medicare in custody can also act as a barrier to a General Practitioner-led model of healthcare.⁶⁰ In contrast, enabling Medicare access in custody would be of particular benefit for Aboriginal and/or Torres Strait Islander people, for whom there are specific healthcare 'items' available under Medicare.⁶¹

In addition, despite the overrepresentation of people with disability in custody in Australia,⁶² there are barriers to accessing disability supports in custodial environments, including through the National Disability Insurance Scheme (NDIS).⁶³ Existing NDIS participants commonly have reduced

access to NDIS-funded disability supports on entering detention. This is because various facets of disability support in custody are meant to be provided instead by other parties, including the justice system.⁶⁴ However, in practice the overall level of support is often significantly reduced.

There are also gaps in identifying NDIS participants, support for applying for the NDIS while in custody, service provider access for those who do receive NDIS services in custody, post release planning, and communication between stakeholders. Both the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* and the Australian Government's own review into the NDIS called on governments to resolve issues with the NDIS–criminal justice system interface.⁶⁵

We suggest the Committee ask the state party to report on:



- **ensuring a standard of healthcare within custodial environments that is at least equivalent to healthcare available in the wider community**
- **enabling access within custodial environments to Australia's national healthcare system, Medicare**
- **ensuring Aboriginal-designed and led, culturally safe healthcare for Aboriginal and/or Torres Strait Islander people in all places of detention in all jurisdictions**
- **ensuring the particular healthcare needs of women are met within all custodial environments**
- **ensuring appropriate access to disability supports including the NDIS in custodial environments, including in practice.**

Use of isolation in custody

ICCPR ARTICLES 7, 10(1)

Uses of different forms of isolation in youth detention continue to be an issue across the country, as the Australian NPM among numerous others has reported.⁶⁶ This presents various negative consequences for the children detained, including impacting mental health and childhood development, education, rehabilitation, links to family and physical health.⁶⁷ Activities and supports while isolated have also been found to be lacking, while detained children have stated that being separated into poor conditions does not provide any behavioural change incentive where this is the objective.⁶⁸

While potentially improving in some cases,⁶⁹ isolation of children by being confined to their cells/rooms remains common.⁷⁰ Prolonged issues with staffing in prisons and youth detention in Australia, also continue to exacerbate the use of isolation practices particularly where insufficient staffing numbers result in reductions in services and 'lockdowns'.⁷¹ In one jurisdiction it was found that all young people were being required to undergo mandatory isolation on admission to youth detention to prevent the risk of transmission of COVID-19 months after the last remaining COVID-19 related restrictions in the general community (including in 'high risk settings') had been lifted. The ACT Inspector of Custodial Services, a member of the ACT NPM, discovered this practice during a

thematic review on isolation and raised it urgently with the relevant Minister leading to a swift discontinuation of the practice.⁷²

The issue of isolation is not restricted to youth detention. For example, the Tasmanian Custodial Inspector reports that time spent out of cell is the most significant issue for adults in custody, and the impact of lockdowns on the wellbeing of adults in custody is also significant.⁷³

But unlike for adult prisons, Australian governments do not report publicly on the time children in youth detention spend out of their cells/rooms.⁷⁴ There is also no uniform definition of isolation across Australia. Records management on the time children spend out of their cells/rooms in youth detention is also sometimes flawed.⁷⁵ Addressing these issues would support nationally consistent recording, monitoring and reporting on the use of different isolation practices in youth detention.⁷⁶

We suggest the Committee ask the state party to report on:



- **reducing the use of isolation practices, in all forms, in custodial environments**
- **progressing a common, Australia-wide definition of isolation practices**
- **progress to ensure consistent data capture and public reporting, across the country, on the use of isolation practices in youth detention.**

Detention of people unfit to be tried, and people found not guilty due to mental impairment

ICCPR ARTICLE 9(1)

The *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* examined the rights of people with disability who face criminal charges and are found unfit to be tried, or not guilty on the basis of mental impairment.⁷⁷ In doing so, it observed the risk of indefinite detention among this cohort of people held in forensic detention.⁷⁸ It raised particular concern with laws in Victoria, the NT, Queensland and Tasmania where there is no fixed maximum term of detention for people found unfit to be tried.⁷⁹ To end indefinite detention it indicated the need to amend laws to set a maximum period of detention for which such people can be held, but also reported that greater supports for people with disability to enable fitness to stand trial were key.⁸⁰

Furthermore, the NT, which has the highest incarceration rate in Australia per capita but no dedicated forensic mental health facility, detains people found unfit to plead in NT Correctional Services facilities alongside people serving sentences of imprisonment.

The *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* further found step-down options for people in the forensic system were needed to facilitate transition to less restrictive environments. It went on to recommend that the 2019 *National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment* (National Principles),⁸¹ endorsed by all but one Australian jurisdiction, be revised including to state that laws providing for indefinite detention should be repealed.⁸²

In response to the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*, all Australian governments have committed to review the National Principles, but not all have accepted the recommendation on their revision.⁸³

We suggest the Committee ask the state party to report on:



- **updates in all jurisdictions on measures to ensure people are not detained indefinitely as a result of being found unfit to plead, or not guilty due to mental impairment**
- **updates on review of the National Principles in line with recommendations of the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*.**

Treatment in aged care and disability care

ICCPR ARTICLES 7, 10(1)

Since the last periodic report of Australia under the ICCPR, the Australian Government has held Royal Commissions⁸⁴ into both *Aged Care Quality and Safety*,⁸⁵ and *Violence, Abuse, Neglect and Exploitation of People with Disability*.⁸⁶ Over 200,000 Australians use government-funded residential aged care services,⁸⁷ while 5.5 million Australians (21.4%) are people with disability.⁸⁸ Both Royal Commissions revealed and reported on failures in the treatment of people in circumstances which amount to being deprived of liberty.

A significant focus of both Royal Commissions was the use of restrictive practices⁸⁹ against people in aged care and people with disability, respectively – with each finding the use was widespread, often unsafe and often inhumane.⁹⁰ The *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* found people with disability were often disproportionately subjected to restrictive practices which not only can deny autonomy, but can impact their health, safety and wellbeing.⁹¹ Both Royal Commissions made recommendations about their use, with a focus on use as a last resort, moving towards their reduction and elimination, as well as improved data capture, ongoing monitoring and reporting.⁹²

New legislation regulating aged care in Australia will commence on 1 July 2025.⁹³ Nonetheless, in its most recent quarterly performance report for October to December 2024, the Aged Care Quality and Safety Commission reported almost 8,000 reported unreasonable use of force incidents, over 3,800 reported neglect incidents, and more than 200 reported inappropriate use of restrictive practices incidents in residential care which were reported to it by service providers.⁹⁴ There have also been some concerns expressed about publicly-available information on the performance of aged care providers,⁹⁵ and concerns that little has changed since the *Royal Commission into Aged Care Quality and Safety* to improve the meeting of healthcare needs within residential aged care.⁹⁶

In the disability space, the NDIS Quality and Safeguards Commission reported over 11,000 NDIS participants with behaviour support plans were subject to unauthorised restrictive practices in 2023–24.⁹⁷



We suggest the Committee ask the state party to report on:

- **progress towards the reduction and elimination of restrictive practices in aged care and in disability care, including ensuring national consistency**
- **work to address high rates of unreasonable uses of force, neglect, and inappropriate uses of restrictive practices reported in aged care, and high numbers of unauthorised restrictive practices use within the NDIS**
- **updates on independent oversight of aged care and disability care across Australia, including in fulfilment of OPCAT obligations.**

OPCAT implementation, and detention oversight

ICCPR ARTICLES 7, 10(1)

Over 7 years after ratification and 15 years after signature, OPCAT implementation in Australia remains incomplete. There are not yet appropriately resourced and empowered NPMs with coverage of all places of deprivation of liberty across the country. Australia's three most populous states have not nominated members for the Australian NPM. Current Australian NPM members have varying status and legislative authority, and no current member is adequately resourced for OPCAT work.

Further, the first visit to Australia of the United Nations Subcommittee on Prevention of Torture (SPT) in 2022 was suspended and later terminated by the SPT. This was owing to their being prevented from visiting multiple places of detention, facing difficulties in undertaking visits at other places, and not being given all relevant information requested for their visit.⁹⁸

At the core of Australia's incomplete OPCAT implementation is ongoing disagreement between different levels of government in Australia as to which should resource OPCAT implementation. In practice, this ongoing disagreement continues to undermine the adequacy of independent external oversight of places of deprivation of liberty in Australia.

Our own Australian NPM annual reports, for 2022–23 and 2023–24, provide further information on some of the key challenges which persist with OPCAT implementation in Australia.⁹⁹



We suggest the Committee ask the state party to report on:

- **updates on what Australian governments are doing to ensure appropriately resourced and empowered NPMs are in place with oversight of all places of deprivation of liberty within scope of Article 4 of OPCAT, across the country**
- **updates on what Australian governments are doing to ensure legislation is in place to enshrine the independence, powers and protections of all members of the Australian NPM, and visits from the United Nations Subcommittee on Prevention of Torture, in all jurisdictions.**



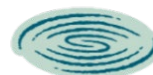
ACT HUMAN RIGHTS
COMMISSION



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ICS
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of Custodial
Services



OFFICE OF THE INSPECTOR
OF CUSTODIAL SERVICES



NT Community Visitor Program



NORTHERN TERRITORY
ANTI-DISCRIMINATION
COMMISSION



ACT Ombudsman



Tasmanian
NPM
National Preventive Mechanism



Commonwealth
National
Preventive
Mechanism



- ¹ See e.g. Australian National Preventive Mechanism (NPM), [Submission to the Senate Legal and Constitutional Affairs References Committee – Australia’s youth justice and incarceration system](#) (10 October 2024); Australian NPM, [Joint Statement – Queensland law change and detention of children in watch houses and adult prisons](#) (6 September 2023).
- ² Australian Human Rights Commission (AHRC), [‘Help way earlier!’: How Australia can transform child justice to improve safety and wellbeing](#) (2024), page 8.
- ³ Australian Institute of Criminology, [‘Youth justice in Australia: Themes from recent inquiries’, Trends & issues in crime and criminal justice, number 605](#) (October 2020), page 1.
- ⁴ Ibid.
- ⁵ See [Youth Justice Act 1992 \(Qld\)](#), section 150(1)(a); [Queensland Community Safety Act 2024 \(Qld\)](#), sections 123, 132(1); [Making Queensland Safer Act 2024 \(Qld\)](#), section 15.
- ⁶ [Making Queensland Safer \(Adult Crime, Adult Time\) Amendment Act 2025 \(Qld\)](#); [Making Queensland Safer \(Adult Crime, Adult Time\) Amendment Bill 2025 – Statement of Compatibility prepared in accordance with Part 3 of the Human Rights Act 2019](#), pages 1, 3–4 (‘Adult Crime, Adult Time Statement of Human Rights Compatibility’).
- ⁷ See Adult Crime, Adult Time Statement of Human Rights Compatibility, pages 2–3.
- ⁸ See [Bail Amendment Act 2025 \(Vic\)](#), section 5. See also AHRC, [National Children’s Commissioner condemns new Victorian bail laws as a backward step](#) (21 March 2025).
- ⁹ [Youth Justice Act 2005 \(NT\)](#), section 4(c), as repealed by [Bail and Youth Justice Legislation Amendment Act 2025 \(NT\)](#), section 10. The legislative amendments also amended the criteria to be considered before granting bail to both adults and children.
- ¹⁰ Australian Institute of Health and Welfare (AIHW), [Youth detention population in Australia 2024 – Trends in sentenced and unsentenced detention](#) (13 December 2024) (‘Youth detention population trends’).
- ¹¹ See e.g. Northern Territory (NT): Australian Broadcasting Corporation (ABC) News, [Detainment of 15-year-old girl in NT police watch house reignites human rights concerns](#) (25 March 2025); Queensland: Queensland Inspector of Detention Services (IDS), [Cairns and Murgon watch-houses inspection report: Focus on detention of children](#) (September 2024) (‘Cairns and Murgon watch-houses inspection report’); Queensland: Queensland Human Rights Commission, [Detention of a child in a watch house – Unresolved complaint report under s 88 Human Rights Act 2019](#) (11 April 2025).
- ¹² Queensland Government Department of Youth Justice and Victim Support, [Changes to Youth Justice Act and Regulation](#).
- ¹³ See ABC News, [Youth Advocacy Centre taking legal action against Queensland government over watch house crisis](#) (29 April 2024); ABC News, [‘Jason’ was beaten repeatedly with a baton in a watch house. An investigation found the use of force was ‘reasonable’](#) (10 July 2024); Guardian Australia, [Screaming, freezing, struggling to breathe: confronting Queensland watch house footage exposes anguish of children locked in isolation cells](#) (17 July 2024).
- ¹⁴ See e.g. Queensland IDS, Cairns and Murgon watch-houses inspection report, page 23.
- ¹⁵ NT Office of the Children’s Commissioner (OCC), [Submission to the Senate Legal and Constitutional Affairs References Committee – Australia’s youth justice and incarceration system](#) (10 October 2024), pages 3–4.
- ¹⁶ Australian Capital Territory (ACT) Office of the Inspector of Custodial Services (OICS), [Submission to the Senate Legal and Constitutional Affairs References Committee – Australia’s youth justice and incarceration system](#) (December 2024), page 9.
- ¹⁷ ACT Public Advocate and Children and Young People Commissioner, [Submission to the Senate Legal and Constitutional Affairs References Committee – Australia’s youth justice and incarceration system](#) (October 2024), page 2.
- ¹⁸ Standing Council of Attorneys-General (SCAG), [Age of Criminal Responsibility Working Group Report](#) (September 2023) (‘MACR Working Group Report’). The SCAG and its antecedents has also been considering the issue of reform to the MACR in Australia since at least 2018: see Council of Attorneys-General, [Meeting Communiqué](#) (November 2018).
- ¹⁹ SCAG, MACR Working Group Report, pages 23–4.
- ²⁰ As of May 2025:
- the MACR in the ACT is 12 years; on 1 July 2025, the MACR in the ACT will increase to 14 years, but with exceptions for children aged 12 to 13 for certain serious offences
 - the MACR in Victoria is 10 years, however legislation is in effect which will raise this to 12 years on or before 30 September 2025
 - the MACR in Tasmania is 10 years, however the Tasmanian Government has committed to raising it to 14 years by 2029
 - the MACR in the NT was raised from 10 years to 12 years in 2023, but was then lowered back to 10 years in 2024

- the MACR in all other Australian jurisdictions is 10 years.

²¹ NT OCC, [Explainer – Youth Diversion](#), pages 2–3.

²² Australian Government Productivity Commission, [Report on Government Services data 2023–24](#), part C (Justice) section 6 (Police services) table 6A.12. See also Jumbunna Institute for Indigenous Education and Research, [Independent Review into the Overrepresentation of First Nations People in the ACT Criminal Justice System – First Report](#) (14 August 2024), page 24.

²³ See SNAICC, [Submission to the Senate Legal and Constitutional Affairs References Committee – Australia’s youth justice and incarceration system](#) (October 2024), pages 14–19. See also Senate Legal and Constitutional Affairs References Committee, [Australia’s youth justice and incarceration system – interim report](#) (February 2025).

²⁴ Australian Government Department of Home Affairs, [Immigration Detention and Community Statistics Summary – March 2025](#) (28 April 2025), page 12 (‘Immigration Detention Statistics’).

²⁵ Ibid.

²⁶ AHRC, [Immigration detainees in prolonged or indefinite detention v Commonwealth of Australia \(Department of Home Affairs and Minister for Immigration and Multicultural Affairs\)](#) [2024] AusHRC 174 (December 2024).

²⁷ As of 31 March 2025, there were six children aged under 18 years held in immigration detention. See Australian Government Department of Home Affairs, Immigration Detention Statistics, page 10.

²⁸ [NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs](#) [2023] HCA 37 (NZYQ).

²⁹ The Hon Tony Burke MP – Minister for Home Affairs and Minister for Immigration and Multicultural Affairs, [Statement on NZYQ](#) (16 February 2025).

³⁰ See e.g. AHRC, [Human Rights Commissioner says NZYQ Nauru resettlement announcement raises more questions than it answers](#) (19 February 2025).

³¹ Republic of Nauru, [Nauru Bulletin – Issue 6 – 2025/289](#) (24 April 2025), page 3.

³² Ibid.

³³ Commonwealth NPM, [Annual Report 2023–24](#), pages 17–18.

³⁴ Commonwealth NPM, [Post Visit Summary – Villawood Immigration Detention Centre](#) (13 September 2024), pages 12–14.

³⁵ See Australian NPM, [Annual Report 2023–24](#), page 19; see also Australian NPM, [Submission to the Committee against Torture – Convention against Torture follow-up procedure: Sixth periodic review of Australia](#) (23 August 2024), pages 9, 16–17.

³⁶ Ratio of Aboriginal and/or Torres Strait Islander to non-Indigenous imprisonment rates. See Australian Bureau of Statistics (ABS), [Prisoners in Australia 2024](#) (19 December 2024), table 18 (‘Prisoners 2024’).

³⁷ AIHW, [Youth detention population in Australia 2024 – Key findings](#) (13 December 2024).

³⁸ The [National Agreement on Closing the Gap](#) is a July 2020 agreement between the Coalition of Aboriginal and Torres Strait Islander Peak Organisations and all Australian governments, “to enable Aboriginal and Torres Strait Islander people and governments to work together to overcome the inequality experienced by Aboriginal and Torres Strait Islander people, and achieve life outcomes equal to all Australians”. Target 10 of the National Agreement on Closing the Gap is to, by 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent. Target 11 is to, by 2031, reduce the rate of Aboriginal and Torres Strait Islander young people (10–17 years) in detention by at least 30 per cent.

³⁹ ABS, Prisoners 2024, table 2.

⁴⁰ North Australian Aboriginal Justice Agency, [Aboriginal people continue to be locked up at record levels putting lives at risk](#) (17 February 2025).

⁴¹ As of 28 May 2025. See Australian Institute of Criminology, [Deaths in custody in Australia](#).

⁴² ABS, Prisoners 2024, table 2. In comparison, the number of people serving a sentence of imprisonment increased by only 1.5% over the same period.

⁴³ AIHW, Youth detention population trends.

⁴⁴ Western Australian (WA) Office of the Inspector of Custodial Services (OICS), [Annual Report 2023–24](#), page 23.

⁴⁵ Ibid.

⁴⁶ [R v Dinela Woods \(sentence\)](#), Supreme Court of the NT SCC 22420726 transcript of proceedings (27 March 2025) (Kelly J), pages 5–6.

⁴⁷ For example, in the ACT the Alexander Maconochie Centre has not always provided separate accommodation for people held on remand. In Tasmania, there is no dedicated separate accommodation for women on remand.

⁴⁸ See e.g. WA OICS, [Report 158 – 2024 Inspection of Hakea Prison](#) (February 2025), page 32; South Australian (SA) Training Centre Visitor (TCV), [Annual Report 2022–23](#), page 56.

⁴⁹ See e.g. New South Wales (NSW) Inspector of Custodial Services (ICS), [Inspection of Bathurst Correctional Centre 2023](#) (February 2025), page 7 (‘Bathurst Inspection’); WA OICS, Annual Report 2023–24, pages 26–7; Australian NPM, Annual Report 2023–24, pages 25–6.

- ⁵⁰ NSW ICS, Bathurst Inspection, pages 7–8.
- ⁵¹ Australian NPM, [Annual Report 2022–23](#), pages 20–4.
- ⁵² S Hampton and P Abbott, ‘Out of sight, out of mind: Investing in prison primary healthcare to target vulnerable groups’ *Australian Journal of General Practice* volume 54 issue 4 (April 2025), page 234.
- ⁵³ WA OICS, [People in custody requiring crisis care](#) (January 2025), page 13 (‘Crisis care review’).
- ⁵⁴ Tasmanian Custodial Inspector (CI), [Adult health care inspection report 2023](#) (June 2024), page 7.
- ⁵⁵ Victorian Ombudsman, [Investigation into healthcare provision for Aboriginal people in Victorian prisons](#) (March 2024), pages 21–2; WA OICS, Crisis care review, page 14.
- ⁵⁶ WA OICS, Crisis care review, pages 15–18.
- ⁵⁷ WA OICS, [Report 155 – 2023 Inspection of Melaleuca Women’s Prison](#) (October 2024), pages 36–47.
- ⁵⁸ See [Health Insurance Act 1973 \(Cth\)](#), section 19(2).
- ⁵⁹ Australian Medical Association (AMA), [AMA Position Statement: Health Care in Custodial Settings](#) (2023); AMA, [AMA Submission to PBAC March Meeting Agenda Item: Access to Medicines for People in Custodial Settings](#) (7 February 2024).
- ⁶⁰ NSW ICS, [Health services in NSW correctional facilities](#) (March 2021), pages 17, 83, 141–2.
- ⁶¹ Ibid.
- ⁶² *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report – Volume 8: Criminal justice and people with disability* (September 2023), pages 31, 34 (‘Final Report – Volume 8’).
- ⁶³ The National Disability Insurance Scheme (NDIS) is Australia’s national government-funded social insurance scheme to fund supports for eligible people with disability.
- ⁶⁴ See NDIS, [Who funds the supports you need when you’re in custody?](#)
- ⁶⁵ *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, 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.
- ⁶⁶ Australian NPM, Annual Report 2022–23, pages 17–20; Australian NPM, Annual Report 2023–24, pages 20–3.
- ⁶⁷ SA TCV, Annual Report 2022–23, page 61.
- ⁶⁸ See ACT OICS, [Thematic Review of a Correctional Service: Isolation of children and young people at Bimberi Youth Justice Centre](#) (November 2023), pages 36–8 (‘Isolation review’).
- ⁶⁹ See e.g. WA OICS, [Review of youth custody: Follow-up to 2023 Inspection \(Part Two\)](#) (November 2024), pages 11–12 (‘Youth custody review part two’).
- ⁷⁰ See e.g. SA TCV, Annual Report 2022–23, pages 57–9; Tasmanian CI, [Annual Report 2023–24](#), pages 12–13. In Victoria there was a 503% increase in the number of episodes of ‘behavioural’ isolation in youth detention in 2023–24, despite a small drop in the average number of people in youth detention in Victoria over that time: Commission for Children and Young People (Victoria), [Annual Report 2023–24](#), page 70. Here, isolation is defined as “the placing of the person in a locked room separate from others and from the normal routine of the centre”: see [Children, Youth and Families Act 2005 \(Vic\)](#), section 488(1).
- ⁷¹ See generally Queensland IDS, [Cleveland Youth Detention Centre inspection report: Focus on separation due to staff shortages](#) (August 2024); conversely, in other cases examples suggest that as more custodial officers are present on shift, the higher the average time spent out of cells/rooms: see e.g. WA OICS, Youth custody review part two, pages 12–13.
- ⁷² ACT OICS, Isolation review, pages 18–25.
- ⁷³ Tasmanian CI, [Adult wellbeing inspection report](#) (November 2024), page 16.
- ⁷⁴ ACT OICS, Isolation review, page 43.
- ⁷⁵ See e.g. SA TCV, [Submission to the Senate Legal and Constitutional Affairs References Committee – Australia’s youth justice and incarceration system](#) (October 2024), pages 19–20; WA OICS, [Report 148 – 2023 Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison \(Part One\)](#) (May 2023), pages 14–15.
- ⁷⁶ Australian and New Zealand Children’s Commissioners, Guardians and Advocates, [Joint Statement on Isolation in Youth Detention](#) (21 February 2024).
- ⁷⁷ See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report – Volume 8, chapter 4*.
- ⁷⁸ Ibid, pages 130–1.
- ⁷⁹ Ibid, pages 143–6.
- ⁸⁰ Ibid, pages 146–151.
- ⁸¹ Australian Government, [National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment](#).
- ⁸² *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report – Volume 8, recommendation 8.12*.
- ⁸³ Australian state and territory governments, [Joint Australian, State and Territory Response to the Disability Royal Commission](#) (2024), pages 63–4.

⁸⁴ “A royal commission is an independent public inquiry. In Australia, royal commissions are the highest form of inquiry on matters of public importance. They are only established in rare and exceptional circumstances.” See Australian Government, [About Royal Commissions](#).

⁸⁵ Royal Commission into Aged Care Quality and Safety, [Final Report: Care, Dignity and Respect](#) (February 2021).

⁸⁶ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, [Final Report](#) (September 2023).

⁸⁷ Aged Care Quality and Safety Commission, [Sector Performance Report: Quarter 2, October–December 2024](#), page 7 (‘Sector Performance Report’).

⁸⁸ ABS, [Disability, Ageing and Carers, Australia: Summary of Findings](#) (4 July 2024).

⁸⁹ Restrictive practices are defined as follows: “Any action, approach or intervention that has the effect of limiting the rights or freedom of movement of a person. Restrictive practices include physical restraints, chemical restraints, mechanical restraints, environmental restraints and seclusion.” See Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, [Final Report – Volume 6: Enabling autonomy and access](#) (September 2023), page 6 (‘Final Report – Volume 6’).

⁹⁰ Royal Commission into Aged Care Quality and Safety, [Final Report – Volume 1: Summary and recommendations](#) (February 2021), page 68.

⁹¹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, [Final Report – Executive Summary, Our vision for an inclusive Australia and Recommendations](#) (September 2023), page 81. See also Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report – Volume 6, chapter 5.

⁹² See Royal Commission into Aged Care Quality and Safety, [Final Report – Volume 3A: The new system](#) (February 2021), recommendation 17; Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report – Volume 6, recommendations 6.35–6.40.

⁹³ [Aged Care Act 2024 \(Cth\)](#).

⁹⁴ Aged Care Quality and Safety Commission, Sector Performance Report, page 43.

⁹⁵ See e.g. Commonwealth Ombudsman, [Aged Care Star Ratings – Public statement](#) (31 October 2024).

⁹⁶ Inspector General of Aged Care, [2024 Progress Report – Implementation of the Recommendations of the Royal Commission into Aged Care Quality and Safety](#) (June 2024), page 40.

⁹⁷ NDIS Quality and Safeguards Commission, [Annual Report 2023–24](#), page 79.

⁹⁸ United Nations Subcommittee on Prevention of Torture, [Press Release: UN torture prevention body suspends visit to Australia citing lack of co-operation](#) (23 October 2022).

⁹⁹ Australian NPM, Annual Report 2022–23; Australian NPM, Annual Report 2023–24.