



Australian Human
Rights Commission

'Left alone':

A review of solitary confinement and similar practices in Australia's youth justice systems

December 2025



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Acknowledgements

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Acknowledgement of Country

The Australian Human Rights Commission acknowledges the Traditional Custodians of Country throughout Australia, and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders – past and present.

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Executive summary

Australia's youth justice system is failing both children and the broader community. In 2023 and 2024, 2 First Peoples children died in custody, first 16-year-old Cleveland Dodd in Unit 18 of Casuarina Prison in October 2023 (Unit 18),¹ and then in August 2024 a 17-year-old at Banksia Hill Youth Detention Centre (Banksia Hill).² The loss of these children has devastated families and communities. It is a stark reminder of the persistent and systemic inadequacies of criminal justice responses to children and youth across the country.

Evidence has shown that these teenagers were subject to extended periods of forced isolation during their time in detention. For instance, the coronial inquest into the death of one of the teenagers was told that he was only permitted out of his cell for between one hour, and one hour 55 minutes each day in the 12 days before he died in custody.³ The former Director General of the WA Department of Justice conceded that this treatment was 'cruel, inhuman and degrading'.⁴

This child was not alone in this experience but joins many from across Australian youth justice settings that have been routinely isolated from their peers, removed from the daily life of youth justice centres, and held in conditions so poor that they have garnered repeated condemnation from both oversight authorities and human rights bodies.⁵

Sometimes, children are isolated in their own rooms and at other times in small, bare cells, with little to occupy themselves and with limited interaction with others for significant periods of time.⁶ In some cases, isolation is accompanied by use of force and restraints, including restraint chairs, handcuffs and even spit hoods.⁷

Extended periods of isolation may amount to 'solitary confinement' (see definition at [2.1]) - an extreme practice that is prohibited for children under international human rights law and which has been recognised as particularly harmful to children.

In Australia, solitary confinement and similar practices are known by a variety of names, including isolation, separation, segregation, exclusion and confinement. Evidence of such practices in Australian youth detention centres and adult prisons holding children is well documented,⁸ and disproportionately impacts First Peoples children and children with disability.⁹

Change is necessary, and well overdue, both as a moral imperative and to bring Australia into line with its obligations under international law. This report, which builds on the many investigations and inquiries by Royal Commissions and monitoring and oversight bodies,¹⁰ joins the call for urgent reform of practices within Australia's youth justice system.





This review finds that solitary confinement and similar practices remain widespread across Australian youth detention settings, despite clear prohibitions under international law. Children are routinely subjected to isolation for extended periods, often under conditions that fail to meet basic standards of care. These practices cause profound harm to children’s mental health, physical wellbeing and development, and disproportionately impact First Peoples children and children with disability. They also undermine rehabilitation, increase the risk of self-harm and suicide, and perpetuate cycles of trauma and disadvantage.

In response, the Commission makes 24 recommendations for urgent reform. These include prohibiting solitary confinement in youth detention centres across Australia, banning the use of isolation as punishment, and introducing nationally consistent definitions and safeguards aligned with international standards. The recommendations call for strict time limits, robust oversight and record-keeping, and minimum

standards for conditions, including access to education, health care and meaningful human contact. They also emphasise the need for adequate resourcing and staff training to reduce reliance on isolation and ensure that youth justice systems adopt trauma-informed, rights-based approaches that prioritise safety, dignity and rehabilitation.

The introduction by Victoria of an express prohibition on solitary confinement in the recent *Youth Justice Act 2024 (Vic)* is a welcome legislative advance that should be adopted across all Australian jurisdictions. However, these provisions are not yet in effect, and this report underscores that reform must go beyond the law on paper. Implementation in practice is essential to close the persistent gap between legal standards and the lived reality of children in detention.

It is only through collective commitment and decisive action that meaningful change can be achieved to protect and promote the dignity and rights of children in detention across Australia.

Recommendations

Recommendation 1:

States and territories should legislate to prohibit solitary confinement in youth detention centres.

Recommendation 2:

Children and young people should only be held in temporary holding facilities, such as police watch houses, for the shortest possible period of time and as a last resort. Specific minimum standards applying to children and young people being detained in temporary holding facilities must be identified and implemented.

Recommendation 3:

All staff working at youth detention centres must be provided with regular training to ensure a clear understanding of the laws that govern holding children in isolated conditions, with such training emphasising the importance of complying with both the letter and the spirit of those legal requirements.

Recommendation 4:

Recognising that resource limitations are a key driver of practices that isolate children in detention settings for extended periods, all state and territory governments should adequately resource detention facilities to ensure adequate numbers of appropriately skilled staff to care for and supervise children in detention and provide these staff with appropriate support to undertake their responsibilities in a challenging environment.

Recommendation 5:

States and territories should expressly define solitary confinement in legislation pursuant to international human rights law and standards.

Recommendation 6:

All state and territory legislation should clearly and consistently define any other terms used to describe isolation practices (as distinct from solitary confinement) used in youth detention settings.

Recommendation 7:

All state and territory legislation should specify maximum periods, both in terms of hours, and in terms of consecutive days where applicable, that a child may be isolated. This should include absolute maximum durations, beyond which no successive authorisation is permitted.

Recommendation 8:

When calculating the duration of any isolation, the entirety of the time that a child is held in isolation must be counted, including any overnight lockdown periods.

Recommendation 9:

State and territory legislation should provide for regular review of whether there are continuing grounds for isolation of a child at short, regular intervals. Where the grounds are not made out, isolation should end.

Recommendation 10:

State and territory legislation should include clear, specific and mandatory criteria for revoking a decision to isolate a child.

Recommendation 11:

State and territory legislation should require that isolation of children should be for the shortest possible duration.

Recommendation 12:

State and territory legislation should consistently use precise language specifying the grounds permitting the use of isolation where necessary as a last resort to prevent a child from self-harming, or to protect the safety and wellbeing of a child or others.

Recommendation 13:

All state and territory legislation should provide that a decision to isolate a child to protect the health of the child or others, (including a decision to continue or end the isolation) must be based on advice of a medical practitioner.

Recommendation 14:

State and territory legislation should require a reasonable belief that isolation is necessary, and not merely prudent.

Recommendation 15:

Isolation of children from others as a form of punishment should be expressly prohibited.

Recommendation 16:

All state and territory legislation should specify consistent minimum standards for conditions in which children are isolated, including with respect to:

- the physical environment
- necessities including food, water, and hygiene
- social interaction including contact with family
- access to meaningful activities and outdoor exercise
- access to legal, medical and other support services.

These minimum standards should reflect the unique vulnerabilities and needs of children.

Recommendation 17:

All state and territory legislation should require that consistent detailed and accessible records are kept when children are isolated. At a minimum, records should include:

- the child's name and date of birth
- date and time the child was isolated
- location of isolation
- reasons for isolation, including other measures used to reduce risk of harm
- any use of force
- duration, including cumulative duration of consecutive periods
- medical, cultural, or other needs and services provided to meet those needs
- social interaction and other meaningful activity while the child is confined
- basic necessities such as food, water, and hygiene facilities provided
- authorising officer and any other person formally notified.

Recommendation 18:

All state and territory legislation should require that records are kept of supervision, which should occur at regular intervals.

Recommendation 19:

All state and territory legislation should require that records of any form of isolation are made available to the appropriate oversight bodies.

Recommendation 20:

All state and territory legislation should require the establishment of a dedicated register for records of isolation of children in detention. All records pertaining to all forms of isolation should be stored and appropriately maintained to facilitate effective oversight.

Recommendation 21:

In recognition of the risks to children's health and development in isolation, all state and territory legislation should require the involvement of and oversight from medical practitioners for all forms of isolation practices. For isolations involving children with physical or mental health issues, disability, or histories of trauma, medical involvement should be required 'as early as possible' – including in the making of isolation decisions, monitoring and reviews.

Recommendation 22:

All state and territory legislation should require prompt notice to relevant individuals and authorities, including parents/guardians/nominated persons, relevant commissioners, ombudsmen and inspectors, as well as relevant government authorities (e.g. the Department of Justice) in all cases of separation or isolation. This should include relevant Aboriginal and Torres Strait Islander authorities in the case of First Peoples children to ensure both oversight and guaranteed access to culturally appropriate support.

Recommendation 23:

All state and territory legislation should require internal review of decisions to isolate children in detention at regular intervals. These reviews should be daily at a minimum, to mitigate the risk of children being unduly held in isolation after the necessity for this has passed.

Recommendation 24:

Australian governments should coordinate development of nationally consistent standards for child justice facilities.

1. About this project

This report is a response to growing concerns about a disconnect between Australia's current practices in youth detention and international human rights obligations with respect to solitary confinement. To better understand the reality of solitary confinement in Australia, this report brings together information emerging from numerous inquiries into youth justice settings, a review of legislation across Australia and survey responses from the youth justice sector.

There is clear evidence that Australia's current practices do not comply with its international human rights obligations. Recent inquiries, investigations and inspections have provided substantial evidence of the too frequent occurrence, and even normalisation of, solitary confinement and similar practices within youth detention settings across the country. It has contributed to deepening concerns within the Australian Human Rights Commission (the Commission) about a wider 'national crisis in youth justice'.¹¹

While there has been reporting of individual cases, oversight of specific facilities, or reporting relating to individual states or territories, the Commission identified a need to bring this evidence together to highlight the systemic nature of the issues across Australia. This is not a matter of isolated instances. The evidence shows a troubling disconnect between law and practice with respect to the use of solitary confinement and similar practices in Australia's youth justice systems. The report also addresses a critical gap by offering an in-depth comparison of Australian legislation with international human rights law and benchmarks.

The Commission recognises that international human rights law and relevant international standards provide clear obligations and standards for the treatment of children in detention.

In 2022, the United Nations Committee Against Torture (UNCAT) reviewed Australia's compliance with its international human rights obligations under the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT). The UNCAT expressed serious concerns about the 'practice of keeping children in solitary confinement, in particular at the Banksia Hill youth detention centre in Western Australia (WA), the Don Dale youth detention centre in the Northern Territory (NT) and the Ashley youth detention centre in Tasmania, which contravenes the Convention and the Nelson Mandela Rules'.¹² The UNCAT recommended that Australia 'immediately end the practice of solitary confinement for children across all jurisdictions'.¹³

In response, the Australian Government stated that:

Most Australian jurisdictions have specific legislation that prohibits the use of confinement for punishments in youth justice settings. States and territories differ in the circumstances in which young people can be isolated, but across all jurisdictions, it is only authorised in limited circumstances. The use of isolation, segregation or confinement is mostly limited to circumstances when it is reasonably necessary for the child's protection or the protection of another child or property. There are a number of conditions that accompany the decision to isolate, segregate or confine a child, including a maximum period of time the child can be kept in isolation or segregation, recording and reporting requirements, requirements for regular contact with staff, and access to support services, education, basic human necessities and exercise.¹⁴

This response highlighted the need to better understand the reality of solitary confinement and similar practices in Australia's youth justice system, and to critically examine whether existing practices and laws align with Australia's international human rights obligations.

This project builds upon the findings of the Commission's 2024 report *'Help way earlier! How Australia can transform child justice to improve safety and wellbeing'*,¹⁵ which investigated opportunities for reform of child justice and related systems across Australia. It emphasises the Commission's call for Australia to bring its youth justice practices, relating to solitary confinement and similar practices, into line with international human rights law and makes recommendations to the Australian Government, and state and territory governments, to that effect.

How we approached this project

To advance this project, the Commission commissioned preeminent international expert on solitary confinement, Dr Sharon Shalev, who is a Research Associate at the Centre for Criminology, University of Oxford. Dr Shalev reviewed legislation on solitary confinement and similar practices in criminal justice settings across all Australian jurisdictions and consulted with relevant bodies through a survey. Questions explored by the survey included:

- What are the permitted forms of separating children from main youth detention population?
- What are they called?
- How often are they used?
- How long can they last?
- What does the daily regime look like?
- Are detained children and young people assured minimum conditions?
- Are there safeguards in place?
- Are they substantive or procedural?

Over 20 oversight, community legal and human rights bodies participated in the survey in 2024, and their responses informed the development of Dr Shalev's initial review of solitary confinement and similar practices used against children in detention. These organisations are:

- Australian Capital Territory Inspector of Correctional Services
- Australian Capital Territory Human Rights Commission

- Public Interest Advocacy Centre (now Justice and Equity Centre)
- New South Wales Inspector of Custodial Services
- New South Wales Office of the Children's Guardian
- New South Wales Ombudsman
- Northern Territory Children's Commissioner
- Queensland Human Rights Commission
- Queensland Family and Child Commission
- Queensland Legal Aid
- Ombudsman South Australia
- Office of the Custodial Inspector Tasmania
- Tasmanian Commissioner for Children and Young People
- Victorian Equal Opportunity and Human Rights Commission
- Victorian Commission for Children and Young People
- Victorian Ombudsman
- Victorian Aboriginal Legal Service
- Western Australia Inspector of Custodial Services
- Ombudsman Western Australia
- Western Australia Commissioner for Children and Young People
- Aboriginal Legal Service of Western Australia.

Dr Shalev's findings are directly incorporated into this final report and are supplemented by expertise from the Commission. The Commission acknowledges Dr Shalev for her contribution to this project, and the expertise that she has provided. All views expressed in this report are those of the Commission, and not of any individual contributor or survey respondent.

The project has also drawn on expertise and contributions from across the Commission, including engagement by Hugh de Kretser (President), Katie Kiss (Aboriginal and Torres Strait Islander Commissioner), Anne Hollonds (Children's Commissioner), Rosemary Kayess (Disability Discrimination Commissioner) and Lorraine Finlay (Human Rights Commissioner). Their collective involvement reinforces the substantial concerns that the Commission holds about current practices in Australia and their human rights impacts.



A note on language

While some literature and reports use the terms ‘children’ and ‘young people’ or ‘youth’ interchangeably, this report uses the term child or children to refer to those aged under 18 years of age, in keeping with the definition of a child under the *Convention on the Rights of the Child*.¹⁶ The terms ‘young people’ and ‘youth’ are in some cases used, in recognition of individuals who may still be in youth detention settings despite having turned 18, such as those awaiting transfer and those supervised by youth justice facilities due to vulnerability.

While some institutions refer to children in detention as ‘detainees’ or ‘residents’, this report refers only to ‘children in detention’. This language both appropriately reflects the situations discussed in this report and avoids conflation with adult persons in detention.

Additionally, the term ‘youth detention centres’ is used to encompass the varying names for such

facilities across jurisdictions, including ‘youth justice centres’, ‘youth justice precincts’, ‘youth justice facilities’, and ‘youth training centres’. Youth detention additionally encompasses other criminal justice settings where children are held, such as watch houses.

Finally, the act or experience of confinement may be described in various ways, including ‘isolation’, ‘separation’, ‘segregation’, ‘seclusion’, ‘exclusion’ and ‘confinement’ (see definitions in [Part 5.1](#)). Other than where referring to statutory terms used specifically in state or territory legislation, this report uses the term ‘isolation’. Where these practices meet the definition set out in the *United Nations Standard Minimum Rules for the Treatment of Prisoners*, known as the ‘Nelson Mandela Rules’ (Mandela Rules) – that is, confinement for 22 hours or more a day without meaningful human contact – they are practices that constitute solitary confinement (see [2.1](#) below).

2. Solitary confinement, similar practices and resulting harms

This report adopts the definition of solitary confinement set out in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). Clearly defining this practice is critical to safeguarding children in youth detention. Solitary confinement can cause severe developmental, mental, and physical harm, and often retraumatizes children who have experienced prior adversity. First Peoples children and children with disability are particularly vulnerable, facing disproportionate rates of isolation and systemic disadvantage. These harms contradict the rehabilitative purpose of youth detention.

Recommendation 1:

States and territories should legislate to prohibit solitary confinement in youth detention centres.

2.1 Defining solitary confinement and similar practices

This report adopts internationally recognised definitions and thresholds for solitary confinement, including those set out in the Mandela Rules. These standards provide a consistent and authoritative framework for assessing the use and impact of isolation practices, including in youth justice settings.

The Mandela Rules define solitary confinement as the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement refers to holding an individual in such conditions for more than 15 consecutive days.

Solitary confinement often separates individuals from their peers in a separate part of a detention

facility, with little or no natural light, a lack of fresh air, limited or special furniture, bedding and amenities, limited contact with others, and limited access to programs and privileges such as phone calls and television.

Practices that may not meet the threshold of 22 hours of confinement can still involve prolonged periods of isolation and give rise to significant harm to persons subject to the isolation – particularly where these individuals are children, First Peoples, have disability, or have intersecting inequalities. In this report, these are referred to as practices similar to solitary confinement.

2.2 Harms caused by solitary confinement and similar practices

Solitary confinement and similar practices have been recognised as highly harmful due to:

- physical and social isolation from others
- reduced sensory stimulation, monotone environment, boredom
- highly controlled and closely supervised existence, high dependence on custodial staff for all daily needs.¹⁷

Social contact is a crucial part of life. It can influence a person's sense of self, support their understandings of reality, play a role in the formation of perceptions, and is fundamental to developing relationships with others.¹⁸ Denial of social contact through physical and social isolation can lead to stress and deprive individuals of the key avenues to alleviate stress such as socialising, being in nature, participating in work, education, sports, or other activities.

Reduced sensory stimulation can make it difficult for a person to 'distinguish between reality and their own thoughts', increase their sensitivity to noise and smells, and have highly detrimental effects on their mental health.¹⁹ Additionally, being held in a highly controlled and supervised environment allows people very limited opportunity to exercise agency and autonomy, often leaving them completely reliant on others,

such as staff, to provide for even the most basic needs, such as food and water.²⁰

The combination of these factors in solitary confinement and similar conditions makes for a pressurised, highly stressful environment. The absence of stimulation, autonomy, and meaningful interaction creates a setting that can quickly overwhelm a person's capacity to cope, leading to heightened anxiety, agitation, and disrupted emotional balance. These effects are compounded when the environment is perceived as punitive or unpredictable. While the practices impact upon both adults and children, the effect on children is particularly acute due to their ongoing development and unique needs.

Children's development

Children undergo significant cognitive, physical and emotional development throughout the different stages of childhood.²¹

Evidence from the fields of child development and neuroscience illustrate that a child's frontal cortex - responsible for executive functioning, including planning, reasoning, and impulse control - develops significantly between adolescence and adulthood.²² As a result, children's decision-making processes are often 'shaped by impulsivity, immaturity and an under-developed ability to appreciate consequences and resist environmental pressures'.²³

That children are at different stages of development is a key reason for recognising 'both in Australia and internationally, that juveniles should be subject to a system of criminal justice that is separate from the adult system and that recognises their inexperience and immaturity'.²⁴

Isolating children from others has been found to impact their cognitive development. Research into the isolation of children outside of detention settings, for example, reveals that isolation can impair the learning of key skills such as speaking, reading and writing.²⁵

Environmental pressures also have a significant impact on cognitive development. Research into solitary confinement in detention settings in the United States for instance indicates that extreme situations can impair brain development and alter brain structure and function.²⁶

Physical development can also be affected by extended periods in confinement. Children and adolescents experience 'growth spurts and changes in hormone levels'²⁷ as part of their regular physical development. The absence

of environmental conditions that promote healthy growth, such as space to play, exercise and adequate nutrition,²⁸ and conditions of confinement that lead to the deterioration of health (see below) can also negatively impact upon development. Further, normal challenges that arise from rapid body maturation, such as stress, withdrawal and depression, can be exacerbated in isolated conditions.²⁹

Mental and physical health

We know that locking up children in these kinds of facilities has serious health and mental health impacts...I am ashamed of the way Australia is treating our most vulnerable children. Governments must be accountable for protecting children from harm when they are in their care.

**Children's Rights Commissioner,
Anne Hollonds, 30 August 2024**

The increased stress associated with solitary confinement can negatively affect the health of those subjected to it. This is well established in the literature with respect to adults, and there is a growing body of research concerning children.³⁰

The most widely reported effects across ages are psychological, the severity of which is influenced by:

[I]ndividual factors (e.g., personal background and pre-existing health problems), environmental factors (e.g., physical conditions and provisions), regime (e.g., time out of cell, degree of human contact), the context of isolation (e.g., punishment, own protection, voluntary/non-voluntary, political/criminal), and its duration.³¹

Some commonly reported signs and symptoms following periods in solitary confinement include anxiety, panic attacks, depression, hopelessness, anger, poor impulse control, cognitive disturbances, perceptual distortions, paranoia, psychosis, and a significantly increased risk of self-harm and suicide.³²

Experiencing solitary confinement and similar practices is stressful, and younger people have 'fewer psychological resources than adults to help them manage the stress, anxiety and discomfort they experience in solitary confinement'.³³ This

is compounded where individuals have existing mental health issues, cognitive impairments, or histories of trauma, abuse and neglect.³⁴

The mental health impacts of solitary confinement on children were explored in an investigation by Human Rights Watch (HRW) and the American Civil Liberties Union (ACLU) in the United States in 2011. These organisations heard harrowing detail about children's struggles with their mental health while held in solitary confinement:

They talked about thoughts of suicide and self-harm; visual and auditory hallucinations; feelings of depression; acute anxiety; shifting sleep patterns; nightmares and traumatic memories; and uncontrollable anger or rage.

Some young people, particularly those who reported having been identified as having a mental disability before entering solitary confinement, struggled more than others.

Fifteen young people described cutting or harming themselves or thinking about or attempting suicide one or more times while in solitary confinement.³⁵

For example, one young person spoken to as part of that investigation said that:

The loneliness made me depressed, and the depression caused me to be angry [sic], leading to a desire to displace the agony by hurting others. I felt an inner pain not of this world.... I allowed the pain that was inflicted upon [me] from [my] isolation placement build up while in isolation. And at the first opportunity of release (whether I was being released from isolation or receiving a cell-mate) I erupted like a volcano, directing violent forces at anyone in my path. ³⁶

Experts have made clear that 'it is uncontroversial that suicide and solitary confinement are correlated'.³⁷ Studies from the United States have found the significant incidence of suicide while children were in isolation, and evidence even suggested that in some cases children attempted self-harm to avoid being placed in isolation.³⁸

Solitary confinement and similar practices can also impact upon an individual's physical health as physiological manifestations of psychological stress, and likely the result of long periods of inactivity, and limited access to fresh air and sunlight.³⁹ These include gastro-intestinal problems, insomnia, deterioration of eyesight, profound fatigue, migraine headaches, joint pains, skin complaints and an aggravation of pre-existing medical issues.⁴⁰

Inquiries, investigations and inspections of Australian youth detention settings confirm the above. For example, the Royal Commission into the Protection and Detention of Children in the Northern Territory (NT Royal Commission) found that the inappropriate, punitive and inconsistent use of isolation had 'caused suffering to many children and young people, and very likely, in some cases, lasting psychological damage' and was 'indicative of a system in crisis where the leadership at all levels seemed incapable of rising above the day to day cycle of misbehaviour, isolation and punishment'.⁴¹ The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) similarly found that:

Solitary confinement can have severe, long-term and irreversible effects on a child's health and wellbeing, including their physical and psychological health and social and educational development.⁴²

The independent statutory role charged with protecting the rights of children and young people detained in South Australia (SA), known as the Training Centre Visitor, has also found that 'isolation practices have no recognised therapeutic value and often retraumatise young people in detention, and exacerbate medical, psychological and social problems'.⁴³ These experiences also intensify 'feelings of anger, dysregulation, insecurity, sadness and loneliness' in children.⁴⁴

Trauma and re-traumatisation

The vulnerability of children in detention is compounded by histories of trauma, common to many children and young people in detention. Children in detention may have endured multiple traumatic experiences in their lives, such as abuse, domestic or community violence, and the traumatic deaths of family members or friends.⁴⁵

Childhood trauma has been found to affect brain development, leading to a focus on survival, and difficulties managing emotions and impulses.⁴⁶ These children 'often remain in a state of vigilance', even after the traumatic events have passed, and may perceive everyday situations as threats, triggering feelings such as anger, powerlessness, shame or fear.⁴⁷

This can make it challenging for these children to calm themselves or regulate their emotions and may see them resort to verbal and physical aggression or self-harm in response to intense stress.⁴⁸ Trauma can also lead to difficulty

sleeping, trouble navigating personal relations and significant behaviour issues.⁴⁹

While in custody, children with previous experience of trauma may find that threats from others, body searches and isolation trigger memories of abuse, neglect, abandonment or conflict, and activate self-harming or aggressive behaviours.⁵⁰

First Peoples children

Removing our children from their families and communities is a continuation of colonial policies and practices. The impact of locking them in institutions where they are out of sight and out of mind, is devastating.

**Aboriginal and Torres Strait Islander Social Justice Commissioner,
Katie Kiss, 30 August 2024**

Incarcerating children, and separating them from their culture, communities and families has an acute impact on First Peoples.

The Royal Commission into Aboriginal Deaths in Custody, for example, acknowledged a variety of diverse cultural differences between First Peoples and others, including responses to custodial spaces and proximity to the outdoors.⁵¹ The Royal Commission emphasised that:

[W]hile the enforced separation from one's friends, family and domestic environment is undoubtedly traumatic for all prisoners, the greater significance of kin and community relations in Aboriginal cultures exacerbates the trauma of separation for Aboriginal people.⁵²

When First Peoples children and youth are incarcerated, they are removed from country, family and community, all of which are central to their culture. The Royal Commission into Aboriginal Deaths in Custody further emphasised that:

The effects of institutionalisation on Aboriginal children [are] particularly destructive because Aboriginal culture and 'institutional' culture are virtually direct opposites, the former being permissive, egalitarian, strongly interactive and kin based while the latter is authoritarian, punitive, hierarchical, individualistic and impersonal.⁵³

The Victorian Aboriginal Legal Service has for example emphasised that the isolation,

separation and lockdown of First Peoples children in detention are re-traumatising, 'completely adverse to the nature of Aboriginal and Torres Strait Islander cultural practices, and only serv[e] to further contribute to the breakdown and decimation of cultural practices that began with the onset of colonisation'.⁵⁴

Children with disability

There needs to be concerted efforts to address disability injustice and to foster the rights, safety and well-being of all children, rather than punitive criminal responses and punishment.

**Disability Discrimination Commissioner,
Rosemary Kayess, June 2025**

A significant number of children in detention settings have disability.⁵⁵ The criminalisation of disability is a significant contributor to the overrepresentation of children with disability in the youth justice system, and the use of isolation practices.⁵⁶ It stems from ableist laws and practices that penalise, detain or police children based on their disability or disability-related behaviours. Criminalisation is driven by a combination of negative attitudes, cumulative disadvantage, inadequate early intervention and disability supports, and the failure to provide the procedural accommodations necessary to ensure equal access to justice.⁵⁷

These systemic failures lead to institutionalisation and detention based on impairment, and the overreliance of the criminal justice system to 'manage' and 'respond' to disability-related behaviour rather than community-based or therapeutic support services.⁵⁸ Such practices are inherently discriminatory and can result in arbitrary deprivation of liberty⁵⁹ which is a direct violation of international human rights law. First Peoples children with disability are disproportionately impacted due to the intersection of racism and ableism.⁶⁰

Consequently, children with disability face an increased risk of violence, abuse, neglect and exploitation within prison environments,⁶¹ and are particularly vulnerable to practices that isolate them from peers and others.

The Disability Royal Commission found that isolation practices are disproportionately

used against children with disability in youth detention, and used excessively as a mechanism for behavioural management.⁶² Youth justice staff often lack the training and awareness to understand and appropriately respond to disability related behaviours, which are often misinterpreted as ‘defiance’ or ‘disobedience’ leading to punitive responses and restrictive practices such as solitary confinement.⁶³ The Disability Royal Commission also found that a lack of disability screening and access to appropriate disability supports in youth detention meant that the needs of children with disability in detention were not being met, making them more susceptible to disciplinary measures that fail to account for their disability.⁶⁴

The use of isolation practices can have especially harmful and lasting effects for children with disability as they are more vulnerable to the negative effects of isolation, including the denial of medical care and attention.⁶⁵ This has a profoundly negative effect on physical and psychological wellbeing. For example, the Disability Royal Commission heard evidence that ‘isolation and solitary confinement exacerbates the difficulties experienced by children in detention who have cognitive impairment and brain injuries’.⁶⁶

The NT Royal Commission heard similar evidence about the use and impact of solitary confinement against children with disability. AN, a child who was in detention between the ages of 13 and 16, had a ‘complex history of family and early-life trauma, a significant cognitive impairment, as well as hearing and vision difficulties.’⁶⁷ She exhibited defiant, self-harm and suicidal behaviours early on in detention, and was frequently isolated both ‘pursuant to the ‘at-risk’ procedure following self-harm or suicidal behaviour’ and ‘for non- ‘at risk’ behavioural reasons’.⁶⁸ AN described the effect of isolation on her:

Being in isolation never made me want to act better. It made me angrier, and it felt like it was making me more mad inside my head ... I hurt myself because I was either so angry at being put in isolation or I would get so upset that I felt dying was better than staying in isolation ... All I knew at the time was that I hated being in isolation so much that I would rather have killed myself.⁶⁹

The Disability Royal Commission was clear on the need for youth justice agencies and staff ‘to be better informed about the impact of detention and isolation on children with disability and the needs of children with disabilities who

are placed in isolation’.⁷⁰ It emphasised the need for a rights-based approach in youth detention which involves a focus on the individual characteristics and support needs of children with disability, particularly in relation to reasonable accommodations.⁷¹ This means that solitary confinement or similar practices should not be used as a response to a child’s disability.

The Disability Royal Commission made the following recommendation in relation to the use of solitary confinement in youth detention:

Australian governments should prohibit solitary confinement in youth detention facilities, prohibit the use of isolation as punishment in any circumstance, and implement stronger regulation and protections in relation to the authorisation of isolation.⁷²

It also recommended other necessary changes to ensure that a prohibition on solitary confinement would be effective, including:

- The rights of people with disability (including children) should be upheld in detention, consistent with human rights obligations. This includes ensuring people with disability have access to the disability supports and services they require.⁷³
- Appropriate disability screening and assessment practices should be implemented.⁷⁴
- Youth justice and custodial staff should receive disability-specific training.⁷⁵

Rehabilitation

We cannot wait any longer for these issues to be addressed. By failing to urgently respond to the crisis in our child justice systems, we are failing our children and our communities.

**Human Rights Commissioner,
Lorraine Finlay, 30 August 2024**

The ongoing nature of the above impacts further makes the practice of solitary confinement inconsistent with safety and good order within detention facilities.⁷⁶

Experiencing solitary confinement and similar practices can have long term impacts on people. Previous studies concerning adults subject to solitary confinement have, for example, found that the profound loss of control and lack of interaction

in these environments can gradually result in their inability to control their own behaviour, undermine their sense of self, and lead to disorientation.⁷⁷

When children experience solitary confinement and similar practices, the harms they experience, and the psychological scars are carried by some for the rest of their lives. These experiences may affect how children relate to others, cope with stress and navigate life after release, and can make reintegration into mainstream detention settings – and eventually into the community – more challenging and isolating.⁷⁸

Research has further found that placing children in solitary confinement – which is often viewed by the child as disproportionate punishment – ‘leads to a lack of trust of the adults around them as well as the criminal justice system’, which can in turn lead to recidivism.⁷⁹

This is ultimately contrary to the primary purpose of youth justice, which is meant to focus on rehabilitation rather than punishment. This point was recently emphasised by Justice Tottle in the context of the relevant youth justice laws in WA:

Subjecting young people – children – to solitary confinement on a frequent basis is not only inconsistent with the objectives and principles of the Act but also with basic notions of the humane treatment of young people. It has the capacity to cause immeasurable and lasting damage to an already psychologically vulnerable group. Depriving children of the opportunity to socialise by confining them in their cells for long hours is calculated to undermine the development of a sense of social responsibility and frustrate the Act’s objective of rehabilitation.⁸⁰

2.3 Solitary confinement of children should be prohibited in Australia

For all the reasons outlined above, solitary confinement should have no place in youth detention centres in Australia. It should be expressly prohibited by law, together with the use of isolation as punishment.

Numerous experts have reached this conclusion, with recent examples including the National Children’s Commissioner in the 2024 report *‘Help way earlier!’ How Australia can transform child justice to improve safety and wellbeing*,⁸¹ the Disability Royal Commission⁸² and the Yoorrook Justice Commission in its 2023 *Report into Victoria’s Child Protection and Criminal Justice Systems*.⁸³

A Joint Statement released by the Australian and New Zealand Children’s Commissioners and Guardians in 2024 stated that:

The use of isolation practices on children should be prohibited, except when necessary to prevent an imminent and serious threat of injury to the child or others, and only when all other alternatives have been exhausted. Where isolation is used, it must be for the shortest amount of time possible and be publicly reported to an independent oversight mechanism.⁸⁴

Importantly, the Disability Royal Commission emphasised the following:

A prohibition on the use of solitary confinement would not undermine the safe operation of youth detention facilities. It would not preclude the appropriate separation of a child in limited circumstances for a specified period to protect that child, another child, or property.⁸⁵

To this end, a prohibition on the use of solitary confinement would also align with the aim that the ‘overriding approach in youth detention should be person-centred and recovery-based rather than punitive’.⁸⁶ Despite this, while noting the recent Victorian legislation, no Australian jurisdiction currently prohibits solitary confinement in youth detention centres.⁸⁷

3. International human rights law and standards

Australia is bound by key international treaties that establish legal obligations to protect the rights of children in youth detention. These treaties, alongside UN standards such as the Mandela Rules and the Beijing Rules, guide Australia's obligations to uphold human rights. International bodies responsible for promoting and protecting human rights have highlighted concerns about solitary confinement occurring in youth detention in Australia.

At the international level, solitary confinement is recognised as an extreme practice, governed through both legally binding human rights treaties and 'soft law' – that is, non-binding instruments that set important standards for the treatment of persons in detention. The combined effect of these instruments is to establish a clear position under international law that '... the use of solitary confinement on children, however described and regardless of the reason for it, constitute clear human rights violations'.⁸⁸

3.1 International human rights law

The *International Covenant on Civil and Political Rights* (ICCPR) contains key provisions relating to solitary confinement and similar practices.⁸⁹

ICCPR Article 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

ICCPR Article 9(1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

ICCPR Article 10(1): All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

ICCPR Article 10(2)(a): Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

ICCPR Article 10(2)(b): Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

ICCPR Article 10(3): The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

The United Nations Human Rights Committee (UNHRC), which oversees the implementation of the ICCPR, has made clear that individuals deprived of their liberty 'enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment'.⁹⁰ Accordingly, 'respect for the dignity of [persons deprived of their liberty] must be guaranteed under the same conditions as that of free persons'.⁹¹ Because treating detained persons with humanity and respect for their dignity is recognised as a 'fundamental and universally applicable rule', States must do so without discrimination. The application of this rule cannot be dependent on the material resources a State has available.⁹²

In its interpretation of the ICCPR, and reviews of States' implementation of the treaty, the UNHRC has recognised the serious and potentially damaging nature of solitary confinement. It has emphasised that solitary confinement is 'a harsh penalty with serious psychological consequences and is justifiable only in case of urgent need...in

exceptional circumstances and for limited periods' only.⁹³ The UNHRC has warned that other uses of solitary confinement outside of these limitations is inconsistent with States' obligations under Article 10(1) of the ICCPR,⁹⁴ and further warned that prolonged periods of solitary confinement may amount to a violation of the prohibition of torture and cruel, inhuman or degrading treatment.⁹⁵

Importantly, the ICCPR emphasises the need for children in detention to be treated appropriately in line with their age, and their legal status.⁹⁶

Convention Against Torture

The *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) builds on the rights in the ICCPR and is also highly relevant when considering solitary confinement.⁹⁷

CAT Article 1(1): For the purposes of this Convention, the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Cruel, inhuman or degrading treatment, while not defined in the CAT, is viewed as a 'continuum' – with relevant factors including the intensity, purpose, duration and frequency of a practice as well as the vulnerability of the person subject to such treatment.⁹⁸

CAT Article 2(1): Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

CAT Article 2(2): No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture.

CAT Article 2(3): An order from a superior officer or a public authority may not be invoked as a justification of torture.

CAT Article 16(1): Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture references to other forms of cruel, inhuman or degrading treatment or punishment.

Implementation of the CAT is monitored by the United Nations Committee Against Torture (UNCAT), a body of independent experts to whom all State parties are required to submit regular reports of compliance with the CAT.

The UNCAT has emphasised that the prohibition against torture and cruel inhuman or degrading treatment is absolute.⁹⁹ States are required therefore to remove legal and other obstacles to the eradication of torture and ill treatment and take positive measures to prevent any reoccurrences of such practices. A key part of this is reviewing and improving national laws and their implementation to align with the rights in the CAT.¹⁰⁰

The *Optional Protocol on the Convention Against Torture* (OPCAT) aims to monitor and prevent mistreatment of people in detention.¹⁰¹ Under this treaty, States agree to establish an independent National Preventive Mechanism (NPM) to conduct inspections of all places of detention and closed environments.¹⁰² Additionally, the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment (SPT) is able to conduct international inspections of places of detention.¹⁰³ The SPT consists of 25 independent and impartial experts from across the world. It has previously stated that solitary confinement 'should not be used in the case of minors ...'.¹⁰⁴

Additionally, the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Special Rapporteur on Torture), an appointed international expert on torture, cruel, inhuman and degrading treatment has also commented on solitary confinement.¹⁰⁵ The determinations of Special

Rapporteurs are not legally binding but carry significant influence internationally.¹⁰⁶

Then Special Rapporteur on Torture, Juan E. Mendez, stated that where solitary confinement is used as a form of punishment, or where the conditions of solitary confinement are 'so poor and the regime so strict that they lead to severe mental and physical pain or suffering', this amounts to violation of the prohibition on torture and cruel, inhuman or degrading treatment or punishment under international law.¹⁰⁷

As regards children, the Special Rapporteur on Torture recognised that 'given their physical and mental immaturity, juveniles need special safeguards and care, including appropriate legal protection'.¹⁰⁸ Accordingly, he held the view that the 'imposition of solitary confinement, of any duration, on juveniles is cruel, inhuman or degrading treatment'.¹⁰⁹ The Special Rapporteur on Torture called on States to abolish the use of solitary confinement, of any duration or purpose, for children deprived of their liberty.¹¹⁰

Convention on the Rights of the Child

The *Convention on the Rights of the Child* (CRC) provides for the specific protection of the rights of children and contains multiple rights relevant to the treatment of children in detention, solitary confinement, and similar practices.¹¹¹

CRC Article 3(1): In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

The United Nations Committee on the Rights of the Child (CRC Committee) monitors the implementation of the CRC and has explained that Article 3(1) aims to ensure children's enjoyment of the rights in the CRC and advance their holistic development.

CRC Article 19(1): States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

The CRC Committee has explained that 'mental violence' against children can include placing them in 'solitary confinement, isolation or humiliating conditions of detention'.

CRC Article 37(a): No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age;

CRC Article 37(b): No child shall be deprived of his liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time

CRC Article 37(c): Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

CRC Article 40(1): States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

The CRC Committee has recommended that 'no child be deprived of liberty, unless there are genuine public safety or public health concerns'.¹¹² The CRC Committee has also emphasised that 'children with development delays or neurodevelopmental disorders ... should not be in the child justice system at all'.¹¹³

Where children are detained, they should not be held in transportation or police cells ‘except as a matter of last resort and for the shortest period of time’,¹¹⁴ nor should they be placed in adult centres, which can compromise their health, safety, and ability to remain free of crime and reintegrate into communities in the future.¹¹⁵ The only exception to this is where it is in the child’s ‘best interest’ to place them in an adult facility – and this exception should be interpreted narrowly.¹¹⁶

Australia has entered a reservation to Article 37(c) of the CRC on the basis that its geography and demography can make it difficult to detain children in youth detention centres while also allowing them the opportunity to maintain contact with their families.¹¹⁷ The CRC Committee has pointed out that the provision contains an exception where this is in the child’s best interests, and expressly protects the right of the child to maintain contact with their family.¹¹⁸ Accordingly, the Commission has called on Australia to withdraw its reservation to this article.¹¹⁹

The CRC Committee has identified principles and rules that must be observed in cases where children are deprived of their liberty, including:¹²⁰

- Children should be provided with a physical environment and accommodation conducive to the aim of reintegration. In particular, regard should be given to their need for privacy, sensory stimuli, and opportunities to engage with their peers and participate in activities.
- Children have a right to access education suited to their needs and abilities to prepare them for their return to society.
- Restraint or force can only be used where a child poses imminent threat of injury to themselves or others, and when all other measures have been exhausted. Restraint should ‘never involve the deliberate infliction of pain’ and is never to be used as a form of punishment.
- Disciplinary measures must uphold the inherent dignity of the child. Corporeal punishment, placement in a dark cell, solitary confinement and any other punishment that may compromise the physical or mental health or wellbeing of the child are strictly forbidden.
- Solitary confinement should not be used for any child. Separation from others must be for the shortest possible time, and only as a last resort to protect the child or others. Where separation takes place, it must be done in the presence of close supervision of a suitably trained staff member, with duration and reasons recorded.

The CRC Committee has repeatedly called for the prohibition of inhuman or degrading disciplinary measures, such as solitary confinement, in its reviews of States Parties to the CRC.¹²¹

Convention on the Rights of Persons with Disabilities

The *Convention on the Rights of Persons with Disabilities* (CRPD) guarantees the full and equal enjoyment of all human rights by all persons with disability, including children. It affirms that disability must never be a basis for diminishing rights or protections and that people with disability are entitled to exercise their rights on an equal basis with others in all areas of life.

CRPD Article 13(1): States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages

State Parties are required to ensure effective access to justice for people with disability on an equal basis with others.¹²² This includes taking positive measures, such as procedural and age-appropriate accommodations¹²³ and training for justice system staff,¹²⁴ to enable people with disability to fully participate in the justice system and to exercise their rights.

CRPD Article 14(1): States Parties shall ensure that persons with disabilities, on an equal basis with others:

- a. Enjoy the right to liberty and security of person;
- b. Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

CRPD Article 14(2): States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

CRPD Article 15(1): No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

CRPD Article 15(2): States shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

The CRPD prohibits deprivation of liberty on the basis of impairment,¹²⁵ and expressly reaffirms the prohibition on torture and cruel, inhuman, or degrading treatment or punishment.¹²⁶ The CRPD requires State Parties to:

- ensure that all people with disability enjoy the right to liberty and security of person on an equal basis with others.¹²⁷
- ensure that when deprived of their liberty people with disability are afforded the same legal protections and procedural guarantees as others, in accordance with international human rights law. People with disability must also be treated in accordance with the principles and objectives of the CRPD, including the provision of reasonable accommodations to ensure their rights and dignity are upheld.
- take all effective measures ‘to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment’.¹²⁸

Article 14 is fundamentally a non-discrimination provision.¹²⁹ It prohibits any distinction, exclusion, or restriction based on disability that diminishes the equal enjoyment of liberty, without exception.

The United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee)

is a body of independent experts that monitors the implementation of the CRPD. It also provides guidance on the interpretation and implementation of the CRPD including in relation to specific articles and obligations.

In its *Guidelines on the Right to Liberty and Security of Persons with Disabilities*, the CRPD Committee has determined that all forms of detention based on actual or perceived impairment, including when combined with other factors (such as perceived ‘dangerousness’ to self or others), are discriminatory and amount to arbitrary deprivation of liberty.¹³⁰ The CRPD Committee is clear that the use of seclusion and various methods of constraint are incompatible with Article 15 of the CRPD, and that State’s must eliminate these practices to protect the security and personal integrity of people with disability who are deprived of their liberty.¹³¹

The CRPD Committee has affirmed that States must guarantee people with disability who are detained in prisons the right to reasonable accommodations that preserve their dignity.¹³² A lack of accessibility and reasonable accommodation in detention may constitute a breach of article 15(2).¹³³ States must also ensure that people with disability deprived of their liberty can live independently and participate fully in all aspects of daily life in their place of detention,¹³⁴ facilitated by the provision of support services and personal assistance where required.¹³⁵ As highlighted earlier in this report, a lack of appropriate supports and accommodations is a contributing factor to the excessive use of isolation and solitary confinement practices against children with disability in youth detention.

The CRPD Committee has been consistent in its concluding observations to numerous States Parties that the practice of solitary confinement, seclusion and/or isolation constitutes a form of torture and cruel, inhuman, or degrading treatment or punishment (torture and ill-treatment). In its 2019 concluding observations concerning Australia, the CRPD Committee expressed serious concerns with the use of prolonged solitary confinement, particularly of persons with intellectual or psychosocial disabilities,¹³⁶ and legislation, policies and practices that permit the use of restrictive practices against people with disability, including children, in any setting.¹³⁷

The CRPD Committee has recommended that laws be enacted to prohibit torture and ill-treatment in all detention settings, including solitary

confinement in juvenile justice settings.¹³⁸ In relation to these practices in Australia, the CRPD Committee has called on Australian governments to take the following measures:

- Repeal any law or policy, and to cease any practice that enables the deprivation of liberty on the basis of impairment.¹³⁹
- End the practice of detaining and restraining children with disability in any setting.¹⁴⁰
- Establish a nationally consistent legislative and administrative framework for the protection of all people with disability, including children, from restrictive practices.¹⁴¹
- Implement policies and measures to protect people with disability in detention, including ensuring people with disability cannot be held in solitary confinement.¹⁴²

3.2 International standards

In addition to binding human rights obligations established by treaties, there are also specific standards relating to the treatment of children in detention. These instruments, although not strictly legally binding, are highly authoritative and persuasive, and provide clarity for States on how to meaningfully fulfil their human rights obligations towards children in detention settings.

The Mandela Rules

The Mandela Rules provide important standards for the treatment of detained persons. These standards, adopted in 2015, draw on international law, correctional science and best practice from around the world.¹⁴³ They are underpinned by basic principles, including that detained persons must be ‘treated with respect due to their inherent dignity and value as human beings’.¹⁴⁴

The Mandela Rules provide the definition of solitary confinement commonly used internationally:

Rule 44: For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.

The Mandela Rules reflect solitary confinement as an extreme practice that can cause significant harm to those subjected to it.¹⁴⁵ The rules emphasise any separation of a person from the

general population of the prison should always be appropriately authorised by law or regulation.¹⁴⁶

Under the Mandela Rules, restrictions and disciplinary sanctions must not amount to torture or cruel, inhuman or degrading treatment in any circumstances:

Rule 43(1): In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited: (a) Indefinite solitary confinement; (b) Prolonged solitary confinement; (c) Placement of a prisoner in a dark or constantly lit cell; (d) Corporal punishment or the reduction of a prisoner’s diet or drinking water; (e) Collective punishment.

Rule 43(2): Instruments of restraint shall never be applied as a sanction for disciplinary offences.

Rule 43(3): Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

The Mandela Rules further set out specific standards relating to the use of solitary confinement:

Rule 45(1): Solitary confinement shall be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner’s sentence.

Rule 45(2): The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply.

Whereas Rule 45(1) acknowledges that in exceptional circumstances solitary confinement might be used in limited circumstances and with appropriate safeguards, Rule 45(2) reiterates the prohibition of solitary confinement involving children, as referred to in other United Nations standards including the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (discussed further below).

The Beijing Rules, Riyadh Guidelines and Havana Rules

The *United Nations Standard Minimum Rules for the Administration of Justice*, known as the 'Beijing Rules' and adopted in 1985, set minimum standards for the treatment of children in contact with the justice system.¹⁴⁷ The Beijing Rules call for States to establish separate laws, rules and provisions that apply to children who break the law, and make clear that the aim of youth justice systems should be to emphasise the wellbeing of children.¹⁴⁸ While the Beijing Rules do not address solitary confinement specifically, they do state that the objective of youth justice institutions is to provide care, protection, education and vocational skills to support children to assume 'socially constructive and productive roles in society'.¹⁴⁹

The *United Nations Guidelines for the Prevention of Juvenile Delinquency*, known as the 'Riyadh Guidelines' and adopted in 1990, are aimed towards diverting children from contact with the criminal justice system.¹⁵⁰ Again, the Guidelines do not directly address solitary confinement but do contain a section on legislation and juvenile justice administration that states that 'no child or young person should be subject to harsh or degrading correction or punishment measures' in any institutions.¹⁵¹

Finally, the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* known as the 'Havana Rules', adopted in 1990, form part of the 'other United Nations standards and norms' referred to in the Mandela Rules and provide strict and specific standards for the management of children (also termed 'juveniles') in detention.¹⁵²

The Havana Rules emphasise that the conditions and circumstances of deprivation of liberty should respect the human rights of juveniles.¹⁵³ Children in detention should be guaranteed access to 'facilities and services that meet all the requirements of health and human dignity'.¹⁵⁴

The physical environment of youth detention should 'be in keeping with the rehabilitative aim' of detention, with due regard to the needs of children for 'privacy, sensory stimuli, opportunities for association with peers and participating in sports, physical exercise and leisure time activities'.¹⁵⁵

Children should also be supplied with sufficient and clean bedding, access to sanitary facilities, personal effects and suitable food.¹⁵⁶ Clean drinking water should be available to youth at all times.¹⁵⁷

Additionally, children should have access to meaningful activities and programs to promote health, self-respect, a sense of responsibility and develop life skills.¹⁵⁸ They should have access to education suited to their needs and abilities, as well as time for daily free exercise in the open air (whether permitting),¹⁵⁹ and regular and frequent visits.¹⁶⁰

The Havana Rules also contain provisions on the use of force, disciplinary action, and solitary confinement.

Rule 64: Instruments of restraint and force can only be used in exceptional cases, where all other control methods have been exhausted and failed, and only as explicitly authorized and specified by law and regulation. They should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time. By order of the director of the administration, such instruments might be resorted to in order to prevent the juvenile from inflicting self-injury, injuries to others or serious destruction of property. In such instances, the director should at once consult medical and other relevant personnel and report to the higher administrative authority.

Rule 66: Any disciplinary measures and procedures should maintain the interest of safety and an ordered community life and should be consistent with the upholding of the inherent dignity of the juvenile and the fundamental objective of institutional care, namely, instilling a sense of justice, self-respect and respect for the basic rights of every person.

Rule 67 goes further to expressly prohibit the use of solitary confinement as a disciplinary measure for children.

Rule 67: All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement, or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited.

International human rights law upholds the dignity of children and prohibits cruel, inhuman or degrading treatment. Human rights bodies have highlighted that solitary confinement of children violates these principles. The Mandela Rules expressly prohibit solitary confinement as a disciplinary measure for children, defining it as a form of ill treatment. Beyond this, the rules highlight the importance of legal safeguards and accountability for any form of confinement. In exceptional circumstances where temporary isolation may be deemed necessary for the safety of the child or others, it must only be used as a last resort for the shortest possible period and under strict supervision. Such isolation must be subject to regular review and ensure access to basic care and rehabilitative and services. Procedures relating to children in detention should promote the safety and dignity of those children.

3.3 Concern from United Nations bodies about youth justice in Australia

Over the past decade, numerous international bodies have repeatedly expressed deep concern about the treatment of children in detention centres across Australia.

The United Nations Office of the High Commissioner for Human Rights (OHCHR) has specifically condemned Australia for holding children in isolation for extended periods of time in alarming conditions. The OHCHR has stated that:

The treatment these children have been subjected to could amount to a violation of the *Convention on the Rights of the Child and the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment*, to which Australia is a party.¹⁶¹

Additionally, the CAT's serious concerns about solitary confinement practices in Australia led the committee to call on Australia to '[i]mmediately end the practice of solitary confinement for children across all jurisdictions'.¹⁶²

The CRC Committee has also repeatedly urged Australia to reform its youth justice system in order to meet international standards, highlighting the overrepresentation of Indigenous children in youth detention centres, and the use of solitary confinement regimes as key issues.¹⁶³ In its most recent Concluding Observations on Australia, the Committee said it continued to be seriously concerned about reports that children are being 'excessively subjected to isolation'.¹⁶⁴

Further, the CRPD Committee has expressed concern about 'the overrepresentation of convicted young persons with disabilities in the youth justice system', particularly from First Peoples communities, and the reports of abuse and use of prolonged solitary confinement against First Peoples children with disabilities in detention settings.¹⁶⁵

4. Children in detention in Australia

This section of the report provides an overview of the age and background of children in youth detention in Australia. First Peoples children and children with disability are vastly overrepresented. Children are held in various settings with a significant proportion held in unsentenced custody.

In Australia, children as young as 10 years old can be legally detained in some jurisdictions.¹⁶⁶ This is 4 years lower than the minimum age of criminal responsibility and 6 years lower than the minimum age of detention recommended by the CRC Committee.¹⁶⁷

According to the latest available data (based on the June quarter 2024) on average there are 845 children in detention each night.¹⁶⁸ Of these, 38 children were aged between 10 and 13 years old.¹⁶⁹ Male children make up 90% of the population in youth detention.¹⁷⁰ The majority of children (80%) are unsentenced, either awaiting a court hearing or awaiting sentencing after being found or pleading guilty.¹⁷¹

First Peoples children are overrepresented in the justice system, accounting for 65% of the population in youth detention centres, despite making up only 6.6% of people aged 10-17 in Australia.¹⁷² These children have overwhelmingly been impacted by ‘a long history of trauma, dispossession and forced displacement and assimilation’ of their communities and families, which uniquely impacts upon their physical and mental health, as well as social wellbeing.¹⁷³

While there is no comprehensive national data collection on the number of children with disability in detention, there are indications that a significant majority of children in youth detention have one or more disability.¹⁷⁴ A majority of First Peoples children in detention have one or more disability.¹⁷⁵ Recent state and territory data indicates that:

- In Queensland (Qld), 54% of children in detention had at least one of the listed disabilities, including 29% of children with a suspected or diagnosed cognitive or intellectual disability, and 31% with at least one suspected or diagnosed mental health or behaviour disorder.¹⁷⁶

- In Victoria a survey of 167 children in detention found that 24% of participants presented with issues concerning intellectual functioning, and 30% presented with mental health issues.¹⁷⁷
- In SA, a study on children in one detention centre found that 9 in every 10 children had disability related needs.¹⁷⁸
- In New South Wales (NSW), a survey into the health of children in detention that 17% of participants presented with indicators of an intellectual disability, and 83% met the criteria for a psychological disorder within the 12 months preceding.¹⁷⁹
- In WA, a study of the state’s only youth detention centre found that 89% of children in detention had at least one domain of severe neurodevelopmental impairment, and 36% had Fetal Alcohol Spectrum Disorder (FASD).¹⁸⁰
- The prevalence of children with disability in youth detention has also been recognised in the Australian Capital Territory (ACT),¹⁸¹ Tasmania¹⁸² and the NT.¹⁸³

The strict discipline and rules in detention settings ‘exacerbate the vulnerability of children with disability who often lack access to therapeutic support and trauma informed care’.¹⁸⁴

First Peoples children and children with disability are not simply 2 distinct groups within youth detention settings. They are a significant and often overlapping majority group. While comprehensive national data on this intersection is lacking, there is a consistent body of evidence that points to the overrepresentation of First Peoples children with disability in detention.¹⁸⁵ These children experience a double disadvantage due to the intersection of racism and disability discrimination which is further compounded by the inherent vulnerability of children generally.¹⁸⁶

Children in detention have been recognised as a vulnerable population group who are likely to have a number of complex needs.¹⁸⁷ Many come from challenging family and home circumstances, including socio-economic disadvantage and poverty, exposure to violence, abuse and neglect, as well as disrupted education.¹⁸⁸ For example, a study into children and young people in detention in SA found that over 90% of participants (184

individuals aged between 14 – 21 years) reported frequently experiencing at least one of the following: emotional abuse, neglect, family violence, physical abuse, neighbourhood violence, and sexual abuse.¹⁸⁹ Many of these children and young people reported having ongoing trauma symptoms (e.g. anxiety, depression, anger and dissociation) and emotional and behavioural problems.¹⁹⁰

4.1 Youth detention settings

Detained children in Australia are mostly held in youth detention centres and, in some cases, segregated areas of adult prisons. While children can be subject to criminal responsibility in all Australian jurisdictions, states and territories are responsible for managing youth detention.

Table 1. Operational youth detention centres in Australia¹⁹¹

State	Centre
ACT	Bimberi Youth Justice Centre
NSW	Cobham, Frank Baxter, Orana, Reiby, Riverina and Acmena Youth Justice Centres
NT	Holtze Youth Detention Centre ¹⁹² and Alice Springs Intake and Transfer Facility ¹⁹³
QLD	Wacol Youth Remand Centre and Cleveland, Brisbane and West Moreton Youth Detention Centres
SA	Adelaide Youth Training Centre (Kurlana Tapa Youth Justice Centre)
TAS	Ashley Youth Detention Centre
Victoria	Cherry Creek and Parkville Youth Justice Precincts
WA	Banksia Hill Detention Centre and Unit 18 of Casuarina Prison

Children awaiting interview, bail, court proceedings, or transfer to youth detention centres are sometimes held in watch houses.¹⁹⁴ These facilities may be a part of an adult prison facility and can be highly confronting for a child who may be held in a cell in a facility that includes adults who are also in custody.¹⁹⁵ In other cases, children have been held for extended periods in police watch houses.¹⁹⁶

4.2 Temporary holding facilities

Recommendation 2:

Children and young people should only be held in temporary holding facilities, such as police watch houses, for the shortest possible period of time and as a last resort. Specific minimum standards applying to children and young people being detained in temporary holding facilities must be identified and implemented.

The Commission is extremely concerned about emerging evidence suggesting that children are increasingly being held in temporary holding facilities, such as police watch houses, for extended periods under conditions not suited to children. Police watch houses are designed as short-term holding facilities for people who have been arrested and are awaiting processing or transfer to a court or detention centre. There are heightened risks in relation to isolation in these settings.

Recent inquiries into the treatment of children in Australian watch houses have highlighted increasing use of watch house facilities to detain children, often for prolonged periods. Data published in the Children’s Court of Queensland 2021-22 Annual Report showed that over the previous 5 years ‘total youth admissions to watch houses had increased by 452% and children being held in a watch house for more than 1 day increased by 163%’.¹⁹⁷ The 2023-24 Annual Report reported that ‘[e]xcept for June this year, on any given month there were more than 500 young

people in watchhouses around the State and on most months those numbers were well in excess of 500'.¹⁹⁸ The 2023-24 Annual Report went on to state:¹⁹⁹

It is inevitable in a state the size of Queensland that there will be times when it is necessary for a young person to spend a night in a watchhouse; however the length of time spent in watchhouses for some young people in this state is significant. In the last year 447 young people spent more than a week in a watchhouse and another 259 spent more than 2 weeks in a watchhouse. Watchhouses are not meant for, or equipped to, hold prisoners for extended periods. They are not appropriate places for children to be housed.

A 2023 Queensland Child and Family Commission inquiry combined court, police and youth justice data to conclude that while the total number of young people entering watch houses had been relatively stable over recent years, young people were being detained in watch houses for longer. The inquiry found that 'there was a marked increase in medium-term detentions of 3 to 7 nights from 2019 to 2022' (from 217 detentions in 2019 to 386 in 2022) and that 'for detentions lasting 8 to 15-plus days, the half-year numbers for 2023 (January to June) surpassed the full-year numbers for 2022' (with, for example, 108 detentions of 15 days or longer from January to June 2023 compared to 21 for the entirety of 2022).²⁰⁰

A review of watch houses conducted by the Queensland Police Service (QPS) found that in 2024 approximately 10% (7,432) of all admissions processed through watch houses in Queensland were children, who spent on average 161 hours in watch houses after they were remanded or sentenced – significantly longer than adult prisoners.²⁰¹ There were 1,034 children held in watch houses in Qld for more than 72 hours between 2021 – 2024, and in some cases the stays extended beyond 21 days.²⁰²

Although the issue has been particularly prominent in Queensland, similar findings have been reported elsewhere. For example, the Office of the Custodial Inspector Tasmania reported in 2025 that children are routinely held in watch houses, including a significant number of children under the age of 14.²⁰³

The reviews have also raised systemic issues leading to these practices. Gaps in coordination between police, courts and youth justice mean no one is directly responsible or accountable for how

long a young person spends in a watch house. While demand and capacity pressures occur across multiple systems it is the young people that are left without an effective response²⁰⁴

Watch houses are not well designed to meet children's needs due to their transitional nature and intended short term purpose. Both the Hobart and Launceston Reception Prison watch houses for example are small, meaning that 'children cannot be adequately separated from adults'.²⁰⁵ As a result, 'they are effectively kept in isolation, unless there is another child in their cell'.²⁰⁶ Children in watch houses are at risk of being separated from other children and held in conditions of isolation for extended periods, without the benefit of the safeguards that would apply to them in youth detention or adult prison and these circumstances have pose significant risks to a child's wellbeing.²⁰⁷

Experts have warned of the impact of the confronting conditions experienced by children in watch houses.²⁰⁸ The QPS Review found that:

Watch houses are not equipped to provide the space, privacy, natural light or support needed for children's physical and psychological well-being. This can result in heightened anxiety, distress and an increased risk of self-harm. The absence of paediatric healthcare professionals further compounds these issues, making the watch house environment unsafe for minors.²⁰⁹

The National Children's Commissioner has also observed:

Police watchhouses are no place for children. I have witnessed myself that there are no windows, no natural light or fresh air. No education, rehabilitation or recreation is provided. The police officers had no training to care for children, most of whom come in with pre-existing disability, trauma and mental distress.²¹⁰

CCTV footage published in 2024 showed a 13-year-old First Peoples child with an intellectual disability being forcibly restrained and put into an isolation cell at a Cairns watch house.²¹¹ At the time that the footage was released, the Australian Human Rights Commission expressed 'grave concern', with the National Children's Commissioner describing the treatment of the child as being 'an egregious breach of human rights'.²¹²

5. The reality of solitary confinement and similar practices in Australia

This section identifies solitary confinement and similar practices as a recurring and concerning issue in youth detention, with reports of children being isolated for multiple days or prolonged periods. The practice is often obscured by inconsistent or inadequate reporting. Grounds for solitary confinement include risk of self-harm, behaviour management, punishment, staff shortages, and security lockdowns. Conditions during confinement are often harsh, involving

inhospitable environments, lack of meaningful social interaction or activities, and deprivation of medical or other essential supports. Adequate resourcing and training for staff are essential to ensure practices align with children’s rights and the rehabilitative goals of youth justice.

There have been numerous formal investigations, inquiries, and inquests that have examined the detention of children in the Australian criminal justice system, and harms that arise. These include:

Table 2. Youth detention inquiries

State/Territory	Inquiry
Commonwealth/ cross-jurisdictional	<p>Australian Human Rights Commission, ‘Help way earlier!’ How Australia can transform child justice to improve safety and wellbeing (2024).²¹³</p> <p>Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Final Report – Volume 8, Criminal justice and people with disability (2023).</p> <p>Australian Children’s Commissioners and Guardians, Human Rights Standards in Youth Detention Facilities in Australia: The Use of Restraint, Disciplinary Regimes and other Specified Practices (2016).</p>
ACT	<p>ACT Inspector of Correctional Services, Isolation of Children and Young People at Bimberi Youth Justice Centre (2023).</p> <p>ACT Inspector of Correctional Services, Report of a Review of Detention Place: Healthy Centre Review of Bimberi Youth Justice Centre (2020).</p> <p>ACT Human Rights Commission, Review of Allegations Regarding Bimberi Youth Justice Centre (Report, 2019).</p>
NSW	<p>Inspector of Custodial Services, Review of Six Youth Justice Centres (2020).</p> <p>Ministerial Review into the riot at Frank Baxter Detention Centre 21 and 22 July 2019 (2019).</p> <p>NSW Inspector of Custodial Services, Use of Force, Separation, Segregation and Confinement in New South Wales Youth Justice Centres (2018).</p>
NT	<p>Royal Commission into the Protection and Detention of Children in the Northern Territory (2017).</p> <p>Northern Territory Children’s Commissioner, Own Initiative Investigation Report Services Provided by the Department of Correctional Services at the Don Dale Youth Detention Centre (2016).</p>

State/Territory	Inquiry
Qld	<p><u>Inspector of Detention Services, Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages (2024).</u></p> <p><u>Inspector of Detention Services, Cairns and Murgon watch-houses inspection report: Focus on detention of children (2024).</u></p> <p><u>Independent Review of Youth Detention (December 2016).</u></p>
SA	<p><u>Training Centre Visitor, Special Report into the use of Isolation at the Adelaide Youth Training Centre (August 2025).</u></p> <p><u>Training Centre Visitor, Annual Report 2022-2023 (2022-2023).</u></p> <p><u>Training Centre Visitor, Great Responsibility: Report on the 2019 Pilot Inspection of the Adelaide Youth Training Centre (Kurlana Tapa Youth Justice Centre) (2019).</u></p> <p><u>Ombudsman SA, Investigation into the treatment of young people in the Adelaide Youth Training Centre (November 2019).</u></p>
Tasmania	<p><u>Office of the Custodial Inspector Tasmania, Children in Tasmania's prisons (2025).</u></p> <p><u>Office of the Custodial Inspector Tasmania, Youth wellbeing inspection report 2024 (2024).</u></p> <p><u>Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (2023).</u></p> <p><u>Office of the Custodial Inspector Tasmania, Youth health care inspection report 2023 (2023).</u></p>
Victoria	<p><u>Yoorrook Justice Commission, Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems (2023).</u></p> <p><u>Victorian Ombudsman, OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people (2019).</u></p> <p><u>Youth Justice Review and Strategy: Meeting needs and reducing offending (2017).</u></p> <p><u>Commission for Children and Young People, The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Youth Justice System (2017).</u></p>
WA	<p><u>Commissioner for Children and Young People (WA), Hear me out: inquiry into implementation progress for Banksia Hill's model of care instruction 2024' (2024).</u></p> <p><u>Office of the Inspector of Custodial Services, 2023 Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (2023).</u></p> <p><u>Office of the Inspector of Custodial Services, 2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre (2022).</u></p>

These inquiries reported significant findings on the use of solitary confinement and like practices in youth detention in Australia.

The research undertaken and survey responses received for this report confirmed that solitary confinement and similar practices are widely

used in youth detention across Australia, under a variety of names and for varying durations, with inconsistent levels of regulation and oversight. Responses also revealed a lack of transparency around practices in some jurisdictions, as well as poor record-keeping, data collection and analysis.

5.1 Incidence and duration of isolation

Recommendation 3:

All staff working at youth detention centres must be provided with regular training to ensure a clear understanding of the laws that govern holding children in isolated conditions, with such training emphasising the importance of complying with both the letter and the spirit of those legal requirements.

A recurring issue

Overuse of solitary confinement and similar practices is a longstanding issue across the country.

The Inspector of Custodial Services of Western Australia has raised concerns about inappropriate isolation practices at Banksia Hill since at least 2013.²¹⁴

It has been almost ten years since the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the NT found that the isolation of detainees at the Don Dale Youth Detention Centre could be described as solitary confinement and possibly amounted to torture.²¹⁵

In NSW, the Inspector of Custodial Services NSW reported 4,401 instances of isolation of children as punishment across six youth detention centres in the State between 2019 and 2020.²¹⁶

The Victorian Ombudsman concluded in 2019 that the practice of isolating children was widespread in youth justice environments.²¹⁷ The Victorian Ombudsman observed that in many cases 'the justification for separation seemed questionable and punitive'.²¹⁸

A few years later, the Victorian Commission for Children and Young People found 'systemic over-reliance on isolation',²¹⁹ with 1,486 episodes of isolation to prevent a child from harming themselves, others or property,²²⁰ and 46,004 isolations for 'security reasons' (lockdowns) between 2022 and 2023.²²¹

The Disability Royal Commission concluded in 2023 that 'the practice of locking children in their cells for 22 or more hours a day has been used in most state and territory youth detention centres' across the country.²²²

Multi-days and prolonged periods

There have been repeated episodes of children in detention being isolated for many hours, over multiple, sometimes consecutive, days.²²³ In WA, the Inspector of Custodial Services in 2021 found evidence of children being confined to their cells for more than 22 hours a day, with one child isolated for 23.5 hours on 3 of 4 consecutive days.²²⁴ The following year, the Inspector found a child had spent 15 days in isolation (including one period of 5 consecutive days, and another of 6 consecutive days).²²⁵

Many alarming reported cases have occurred in Queensland. These include findings that in 2023:

- A child was isolated for over 21 hours per day for 21 days while on remand.²²⁶
- A child with disability was isolated for between 21-24 hours per day for 30 days (and a full 24 hours per day for 3 of those days) while on remand.²²⁷
- A child was isolated for more than 20 hours per day for 87 days, and a full 24 hours per day for 10 of those days.²²⁸ The Children's Court of Queensland said that the circumstances of detention were 'cruel, inappropriate and have served no rehabilitative effect'.²²⁹

Between 2021 and 2023 6 boys were kept in separation for 20 or more hours each day for more than 70 consecutive days.²³⁰ Another child had been held in separation for 181 days, spending only 4% of his time outside of his room and attending school only 3 times across the 181 days.²³¹ While increases in staffing numbers had enabled the youth detention centre to reduce its use of separation, during an onsite inspection on 20 October 2023 it was reported that 40% of the 90 children being held at the Centre, were in separation.²³²

Hidden solitary confinement and similar practices

Some practices sidestep restrictions on isolating children for long periods and reduce transparency. In some jurisdictions, for instance, exclusion of overnight hours from the count of hours of confinement has resulted in isolation for periods beyond lawful maximums. The NSW Inspector of Custodial Services explained:

[A] young person serving 12 hours or more may lose time out of room for the day, and then be in their room for the night at the completion of the confinement... It is possible for young people to be confined on consecutive days for different misbehaviours which may lead to young people spending long periods in their room without technically breaching the 24-hour maximum period of confinement.²³³

Of particular concern is evidence of efforts by detention staff to deliberately circumvent maximum periods of isolation set out in the legislation. In 2023 for example, a Queensland judge found instances of ‘calculated contrivance’ by detention centre staff to keep periods of separation to officially just under the maximum limit, including by relying on the exclusion of ‘overnight hours’, leading to repeated separation of a child for 24 hours less one minute per day.²³⁴ Some inquiries have also outlined evidence of senior detention centre staff showing deliberate disregard for compliance with limitations on duration set out in the legislation and regulations.²³⁵

It is critical that all staff working at youth detention centres are provided with appropriate education and training. In particular, Article 10(1) of CAT requires that ‘education and information regarding the prohibition against torture are fully included in the training’ of all persons ‘who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment’.²³⁶

5.2 Common grounds for isolation

Recommendation 4:

Recognising that resource limitations are a key driver of practices that isolate children in detention settings for extended periods, all state and territory governments should adequately resource detention facilities to ensure adequate numbers of appropriately skilled staff to care for and supervise children in detention and provide these staff with appropriate support to undertake their responsibilities in a challenging environment.

Risk of self-harm

Isolation has commonly been used as a means to manage children at risk of self-harming. In South Australia for example, children were found to have commonly been placed into safe rooms for ‘exhibiting turbulent or self-harm related behaviours’.²³⁷

Numerous reports have concluded that isolation is not an effective response to children at risk of self-harming but instead has often resulted in ‘[o]ngoing episodes of attempted self-harm, agitated and sometimes aggressive behaviour’.²³⁸

Behaviour management

Isolating children has also often been used as a form of ‘behaviour management’. Even when this doesn’t reach the threshold of solitary confinement, it can have significant negative impacts for children.

A 2017 review of the Victorian youth justice system for example found that isolation, separation and lockdown can often be ‘attributed to knee-jerk’ staff reactions in response to problematic behaviour’ from children.²³⁹ The reviewers found the difficult behaviour from children is often driven by frustration or boredom, which they noted was unsurprising given the existing operating model of detention centres.²⁴⁰ The reviewers found that a

lack of confidence from staff to confront negative behaviour contributed to the common isolation of children but was likely to only compound issues around behaviour.²⁴¹

Similarly, the ACT Inspector of Correctional Services in 2021 expressed significant concern about forms of separation being used at Bimberi Youth Justice Centre that did not have a legislative basis, such as 'time out' and accommodation of children in units by themselves.²⁴² While 'time outs' can be for short periods, they can still involve a child being locked in a room by themselves, which can be difficult especially for those with histories of trauma and mental health issues and may be viewed as a punishment by the children subject to them.²⁴³

In some jurisdictions, there have also been various practices outside of the legislation that involve isolation. For example, in Tasmania the 2023 Tasmanian Commission of Inquiry reported that several practices met the definition of isolation but were not labelled as such, including 'unit bound', 'individualised programs', non-association, and the 'Blue Program'.²⁴⁴ Children who were 'unit bound' for instance (which typically occurred as a 'temporary response' to risk of escape), were allowed out of their rooms, but contained within their locked unit.²⁴⁵ The Tasmanian Commission of Inquiry found evidence of children being 'unit bound' and under the similar 'Blue Program' for 'excessive periods ranging from 18 – 25 days'.²⁴⁶ The Commission found that it was unclear whether these children were allowed to associate with others while unit bound, and there was inconsistent access to common areas of their unit – such as school, the gym and outdoor areas.²⁴⁷ Staff reported that children were not permitted to attend school 'until they agreed not to behave in the ways that caused them to be placed in the unit'.²⁴⁸

As the South Australian Training Centre Visitor has explained, children in detention are 'regularly expected to maintain positive behaviours in untenable circumstances'.²⁴⁹ Many of these children have disability and experiences of trauma and abuse that can be triggered by 'tense environments, restraints or controls'.²⁵⁰ Placing children in isolation does not enable children to develop coping mechanisms but rather reinforces and exacerbates negative patterns.²⁵¹

This was also reflected in the findings of the Disability Royal Commission, where it was highlighted that there was no evidence that solitary confinement would be an appropriate response to disability-related behaviours.²⁵² The Disability Royal Commission specifically called

for solitary confinement in youth detention to be prohibited.²⁵³ It went on to emphasise that before authorising any period of isolation for a child with disability, individual circumstances must be considered – including individual disability support needs and any reasonable accommodations required. These findings reinforce the need for behaviour management strategies that are trauma-informed, rights-based, and responsive to disability. Staff must be equipped with disability awareness training, and systems should include screening, access to appropriate supports, and adjustments to ensure that isolation is not relied upon in place of therapeutic or rehabilitative responses. While these issues intersect with broader concerns around solitary confinement, they are particularly relevant in the context of behaviour management and should be reflected in both policy and practice.

Punishment

In several jurisdictions, isolation has been used as a form of punishment. For example, in 2018 a review in NSW of six youth justice centres found that confinement was the most frequent kind of punishment – imposed in 71% of matters between 2017-2018.²⁵⁴ This included punishment for bad language, which in one case resulted in confinement for 10 hours and 20 minutes.²⁵⁵

Similarly in South Australia, the Training Centre Visitor reported in 2019 that one third of children who experienced isolation reported that 'being sent to their room to be alone was a consequence of negative behaviour'.²⁵⁶

More recently, in 2020 the NSW Inspector for Custodial Services found that staff at Frank Baxter Youth Justice Centre were 'relying on confinement and segregation to manage behaviour. Staff were punishing young people for minor misbehaviour with confinement in cold and unclean holding rooms, in contravention of legislation and policy'.²⁵⁷

In 2023, the Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings ('Tasmanian Commission of Inquiry') found evidence that isolation and use of force 'have been misused, sometimes excessively and unlawfully, to punish and degrade' children, violating their human rights.²⁵⁸ The Tasmanian Commission of Inquiry further emphasised that the unauthorised, unregulated and unreported use of isolation increased the risk of, and opportunities for, physical and sexual abuse of young people.²⁵⁹

Even where isolation is not intended to be a form of punishment, it is often perceived by children as

such. The Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory heard children say that they viewed isolation as punishment for ‘doing the wrong thing’, ‘not doing what they were told’ or ‘getting into trouble’ including for issues such as ‘being smart, talking back or swearing’.²⁶⁰

Staff shortages

Staff shortages have been a common driver for holding children in isolation in detention centres across the country. In Victoria for example, a 2017 review of the youth justice system found that staffing shortages are a frequent catalyst for ‘lockdowns’. Children appeared to have realised that their time out of their bedrooms is directly correlated to the number of staff on shift and sometimes asked questions on this.²⁶¹ More recently, the Yoorrook Justice Commission recommended that the Victorian Government ‘ensure that Victorian prisons and youth justice centres are adequately funded and properly operated so that the common practice of locking down prisoners in their cells for prolonged periods for administrative or management reasons in violation of their human and cultural rights is ended’.²⁶²

In 2025 the Youth Justice Court in the Northern Territory was told that ‘multiple children with chronic and complex mental health issues were being exposed to almost continuous lockdowns inside Holtze Youth Detention Centre’.²⁶³

Such practices may be authorised under existing grounds for isolation in the legislation. In Queensland, the Inspector of Detention Services found, for example, in 2024 that ‘staff shortage separations...have been persistent and frequent’ at the Cleveland Youth Detention Centre and are recorded under section 21(1)(d) of the *Youth Justice Regulation 2016* (Qld) (the protection of other children and property).²⁶⁴ This kind of isolation sees children held in their rooms for part or all of the day ‘because there are not enough operational staff to maintain the safe supervision ratio’ (one youth worker to 4 children).²⁶⁵

Staff shortage-driven isolations are particularly concerning because they can in some cases involve isolation for extended periods and impact numerous children at once. The Inspector of Detention Services in Queensland for example found that ‘night mode’ separations (not defined in the legislation or relevant policies) resulted in children being held in their rooms between 7:30am -7:30pm.²⁶⁶ Children were only escorted out of their rooms to attend a visit, medical

appointment or program. The Inspector found evidence that between 2022-2023 many children were subject to such separation, often on consecutive days, including some for more than 70 days in a row.²⁶⁷

In other cases, isolation due to staff shortages was authorised as part of operational measures that fall outside primary legislation. In Tasmania for example, the Tasmanian Commission of Inquiry heard about ‘restrictive practices’ and ‘lockdowns’, which involved restricting all children at Ashley Youth Detention Centre to their rooms and were found by the Commission to be clearly ‘isolation by another name, and human rights abuses ... [that] have the same impact as other isolation practices on children’s health and wellbeing’.²⁶⁸

Recent cases in Western Australia have highlighted the direct impacts of factors such as staff shortages in creating conditions where ‘rolling lockdowns’ become a normalised part of the operation of a youth detention facility. Indeed, the Disability Royal Commission observed that ‘Banksia Hill has a consistent history of staff shortages leading to excessive cell lockdowns’.²⁶⁹

In Western Australia, records provided to the Inspector of Custodial Services in 2023 showed that, due to the cumulative impact of staff shortage lockdowns, staff breaks and training, and responses to incidents, on average children at Banksia Hill spent only 7.5 hours out of their cells per day, and children held in Unit 18 only 3.3 hours out of their cell.²⁷⁰ During their inspection, the Inspector found actual times out of cell to be even less than this, and in some parts of Banksia Hill, time out of the cell ranged from ‘no time at all (for 12 young people on Saturday and 30 on Sunday) to a few hours for the young women and girls [in one unit]’.²⁷¹

In *The State of Western Australia v IJ*²⁷² evidence before the Children’s Court of Western Australia was that IJ – who had turned 18 years of age while in custody at Banksia Hill in 2022 – was subject to rolling lockdowns due to staff shortages and operational demands. This included periods of continuous solitary confinement for 15 days in a row and 42 days of being unlawfully detained in his cell for more than 20 hours per day in breach of state legislation. The Court found the unlawful solitary confinement was punitive and harsh and a gross violation of IJ’s rights.²⁷³

Media reporting of a case heard earlier that same year described a 15 year old boy who ‘spent 79 of 98 days held in a “fishbowl” cell at Banksia Hill Detention Centre, where he wasn’t even given the right to exercise or breathe fresh air for 33

or more days'.²⁷⁴ Judge Quail was reported as referring to the lack of resourcing, education and staff at Banksia Hill when sentencing the 15 year old, observing that detention conditions failed to meet the minimum standards required by law and that in this case the 'experience of detention at Banksia Hill has been one of prolonged systematic dehumanisation and deprivation, it has had no rehabilitative element or effect and has been unjustly given'.²⁷⁵ Judge Quail said in court '[w]hen you treat a damaged child like an animal, they will behave like one and if you want a monster this is how you do it'.²⁷⁶

Similarly, in 2 other recent cases the Supreme Court of Western Australia found that the extended confinement of young people in Banksia Hill and Unit 18 – with staff shortages being a critical factor – was unlawful. In 2022 Justice Tottle heard evidence of a teenager who was locked in his cell for periods of more than 20 hours and, on some days, for between 23 and 24 hours while detained on remand at Banksia Hill.²⁷⁷ The primary cause of the teenager being locked in his cell for these extended periods was severe staff shortages.²⁷⁸ In finding that the confinement of the teenager to his cell for extended periods was unlawful, Justice Tottle acknowledged that this finding may cause practical problems especially in light of the chronic staff shortages referred to in the evidence. However, this did not outweigh 'the potential for considerable harm to be suffered by detainees who are confined to the sleeping quarters for periods of almost 24 hours a day on a regular basis ...'.²⁷⁹ Ultimately, the Court found that practical challenges such as staff shortages did not justify adopting practices such as extended lockdowns which were not authorised by law.

In a similar case heard in the Supreme Court of Western Australia in 2023, 3 young people (one female and 2 males) were found to have been confined to their cells unlawfully – being held, in effect, in solitary confinement – as a result of 'rolling lockdowns' at both Banksia Hill and Unit 18 across various dates in 2022 and 2023. While recognising the practical challenges posed by factors such as staff shortages, inadequate infrastructure and disruptive behaviour by detainees, Justice Tottle pointedly observed that 'it is not sufficient for the superintendents and their staff to do their best in difficult circumstances – the requirements of the Regulations must be observed'.²⁸⁰

Similar evidence has also been highlighted in reports published by the Office of the Inspector of Custodial Services.²⁸¹ The need for urgent reform in Western Australia has been most clearly

underscored by the tragic deaths of 2 First Peoples children in custody, in October 2023 at Unit 18 and August 2024 at Banksia Hill. At the time of writing, the coronial inquest into the death of Cleveland Dodd at Unit 18 – which began in April 2024 – had finished hearing oral evidence in December 2024, with closing submissions being made in June 2025. Findings are expected to be handed down in late 2025, although Coroner Urquhart handed down 18 'preliminary recommendations' including that 'Unit 18 should be closed as a matter of urgency'.²⁸²

This recommendation was not supported by the Western Australian Department of Justice in their closing submissions to the inquest, with the Court being told that 'major improvements had been made to Unit 18' since the death of Cleveland Dodd but that Unit 18 'was necessary at the time of opening and it remains necessary now'.²⁸³ The Department of Justice indicated that they supported 17 of the 20 recommendations relevant to the Department proposed by Counsel Assisting the Coroner, apologising for its failings 'connected with Cleveland's death' and expressing 'regret and remorse'.²⁸⁴

Evidence was given during the coronial inquest that across his final 93 days, Cleveland Dodd had been 'locked in his cell for more than 22 hours a day ... for more than 80 per cent of those 93 days'²⁸⁵ and that 'over the 86 days of his final period of detention (Cleveland) was permitted to recreate in the yard 4 hours and 10 minutes, an average of less than 3 minutes a day'.²⁸⁶ The former Director General of the Justice Department, Adam Tomison, gave evidence at the inquest that the previous treatment of juvenile detainees at Banksia Hill amounted to 'institutional abuse'.²⁸⁷ The Australian Children's Commissioners and Guardians have warned that:

Children and young people in youth justice detention experience lockdowns as a form of isolation and as a form of punishment ... Unscheduled lockdowns contribute to emotional instability in children and young people with histories of trauma, and are contrary to trauma-informed approaches to youth justice practices. Lockdowns can reduce children and young people's access to education and health services in youth detention centres, and can lead to visits with family being cancelled.²⁸⁸

Such practices are of particular concern when they circumvent record-keeping obligations and undercut important safeguards and oversight of children held in isolation for extended periods.

While recognising the practical challenges posed by resource limitations and staff shortages, it should also be emphasised that the lack of resources is not an excuse for human rights violations.²⁸⁹

Operational Isolation

Operational isolation refers to situations where children are held alone in their rooms or cells because of routine practices within youth detention centres – such as safety measures, separation by classification, or population management.

One example of this are lockdowns, which may involve children being ‘asked to remain in a particular place for a period of time in order to manage a risk to safety and security of young people and other people’.²⁹⁰ Lockdowns, including rolling operational lockdowns, and health and safety lockdowns, can also result in extended periods of isolation. The cumulative impact of different kinds of isolation and similar practices lengthen the time children are held alone in their rooms or cells.

Sometimes, forms of separating children that are not intended to result in their placement alone, have resulted in this occurring. For example, in NSW, separation of ‘classes’ of children ‘is used for individuals or groups of detainees who need to be managed separately to the general youth detention centre population for the safety, security or good order of the centre’.²⁹¹ In practice, this has been used to keep young women and girls separate from young men and boys; or young people of different ages or classifications separate from one another.²⁹² While this is not intended to result in a young person being kept alone, it has been found to have the potential to give rise to isolation of individual children.²⁹³

In the ACT, children at Bimberi Youth Justice Centre may be accommodated alone in units for extended periods. This is a result of some young detainees at Bimberi being managed separately ‘due to their level of risk and association issues with other young detainees’.²⁹⁴ The ACT Inspector for Custodial Services, for example, described a case where a child ‘had been housed in a unit by himself for 12 weeks with very little time out of the unit each day and minimal mixing with other [children]’.²⁹⁵ While it was noted that ‘sometimes the population at Bimberi is very low and accommodating a young detainee in a unit by themselves may be unavoidable’, the ACT Inspector for Custodial Services concluded that ‘if that is the case measures must be put in place to limit the impact on the young detainee’ (for

example, through appropriate mixing with others at every available opportunity).²⁹⁶ These observations highlight the need for regulatory safeguards that ensure the needs of children who are segregated – by gender or for other reasons – are prioritised and arrangements are put in place to avoid isolation.

Spotlight: girls in youth detention

While the population in youth detention is predominantly male, numerous girls are detained across Australia. On an average night in the June quarter 2024 there were 83 females in youth detention in Australia, making up 10% of the overall number of young people detained.²⁹⁷

The need for gender-specific protection and fair treatment is clearly recognised in the Beijing Rules which states:²⁹⁸

26.4 Young female offenders placed in an institute deserve special attention as to their personal needs and problems. They shall by no means receive less care, protection, assistance, treatment and training than young male offenders. Their fair treatment shall be ensured.

Despite this, ‘numerous reports into Australian juvenile detention centres have exposed how girls, being a small minority of the detained population, are wedged into facilities designed for boys, where their needs are deprioritised’.²⁹⁹

For example, while girls are segregated from boys in detention,³⁰⁰ in smaller youth detention centres where low numbers of children are detained, this may result in girls being accommodated on their own, leading to ‘reduced opportunities for meaningful contact with other children’.³⁰¹

The smaller proportion of girls in detention centres can also result in ‘fewer freedoms and benefits’. For example, in SA, the Training Centre Visitor found that between 2022-2023, girls had the greatest number of days where their regular routines were ‘modified’ (e.g. due to staff shortages) resulting in reduced time out of their rooms.³⁰² This can, and has been found to lead to frustration, distress, and an increase in ‘incidents’ such as refusing to return to rooms, or group ‘stand offs’.³⁰³

5.3 Conditions

There is evidence that children subject to solitary confinement and similar practices have been held in very poor conditions in several jurisdictions.

This is despite the Australasian Youth Justice Administrators National Standards for Youth Justice in Australia 2023 stating that ‘the health and wellbeing of a child or young person is paramount during periods of isolation or separation’.

Physical environment and necessities

In Queensland’s Cleveland Youth Detention Centre, there has been evidence that children are sometimes locked in their accommodation rooms, and at other times dedicated separation rooms. The state’s Inspector of Detention Services in 2024 found significant issue with dedicated separation rooms in particular, which they found to be ‘small rooms with bare cement floors and walls covered in graffiti. They are empty, with no toilet, running water, bed or seat’.³⁰⁴ While these rooms are predominantly intended for brief interventions, the Inspector observed these rooms being used to accommodate children overnight.³⁰⁵

WA’s Children’s Court President, Hylton Quail in 2022 described conditions at Unit 18 at Casuarina Prison – a unit within the maximum-security adult prison established as a youth detention centre in July 2022 ‘to temporarily house disruptive male detainees’³⁰⁶ from Banksia Hill – as ‘barbaric’, ‘cruel and arbitrarily punishing’, with no rehabilitative effect.³⁰⁷ Judge Quail referred specifically to there being ‘no access to education, recreation, visits ... there is very little human interaction, the cells are bare, with a mattress on the floor ... the detainees are starved of stimulation’.³⁰⁸ The conditions at Banksia Hill, also in WA, have also been criticised in numerous inspections, inquiries and investigations.³⁰⁹

The NT Royal Commission, which published its final report in November 2017, found that the Don Dale and Alice Springs Youth Detention Centres were unfit for detaining children, with the isolation cells found to be particularly alarming. The Royal Commission found that since 2014, isolation had taken place in ‘C Block’ and the ‘High Security Unit’ (HSU) of former adult prison Berrimah Gaol.³¹⁰ C Block was formerly a high security accommodation area, and was described as ‘disgusting’, ‘extremely hot’, ‘dirty’ with ‘no clean water provided within the cell’.³¹¹ The HSU was formerly maximum-security

housing for adult prisoners and was described as ‘an enclosed concrete block with heavy metal doors, metal bars and little natural light. It is an oppressive environment completely unsuitable for accommodation children and young people’.³¹²

The South Australian Ombudsman in 2019 described the Frangipani Unit at the Adelaide Youth Training Centre (AYTC) as:

... a separate unit fitted with security features, that is used to accommodate residents who are segregated, or on restricted or structured routines. There is a small, fenced courtyard in the unit for exercise periods.

The room my Officers visited in Frangipani Unit had minimal amenities, being: a toilet; a basin; a bed; a mattress; and a caged small television mounted high on the wall near the ceiling. In other words, it was similar to a prison cell.³¹³

In Victoria, a 2017 review of detention facilities raised particular concern around the absence of access to sanitation in rooms utilised for isolation. The Commission for Children and Young People found the absence of sanitary facilities within most isolation rooms at Parkville Youth Justice Precinct, and some of the isolation rooms at Malmsbury Youth Justice Precinct. Children detained in these centres reported, and closed-circuit television footage confirmed, that staff were not always responsive to requests for an escort to the bathroom. Accordingly, the Commission heard that children and young people urinated, and sometimes defecated, in the isolation rooms.³¹⁴

Addressing these issues may not always be straightforward and will require more than simply the allocation of additional resources. Recent reports by both the Inspector of Custodial Services and the Corruption and Crime Commission in WA recorded ongoing destruction and damage to infrastructure caused by some young people at both Banksia Hill and Unit 18, as well as ‘regular critical incidents such as staff assaults, roof ascents and riotous behaviour’.³¹⁵ This behaviour by some young detainees should not be accepted or condoned. It does, however, highlight the need to adopt a model of care in youth detention centres that will help address the underlying root causes, and the importance of focusing on primary prevention.

Social interaction

There is evidence from multiple jurisdictions that children have been isolated from others for extended periods without meaningful human contact, as required under the Mandela Rules.

The WA Inspector of Custodial Services for instance found in 2021 that children at Banksia Hill Youth Detention Centre had been locked in rooms or cells for extended periods, without meaningful interaction with their peers and with limited opportunity to exercise or spend time in a yard.³¹⁶ In some cases, children were provided most of their meals in their room/cell – again limiting their social interaction with others.³¹⁷ The Inspector added that these extensive periods alone, in cells often in a poor state, ‘typically led detainees to act out and, increasingly, they were self-harming.’³¹⁸ Visits from family and social visits were often restricted from children on certain supervision regimes, and phone calls were often limited due to damaged or broken handsets’.³¹⁹

The NT Royal Commission heard that ‘Aboriginal children and young people were placed in isolation without family contact and without any attempt to mitigate the impact of this practice’.³²⁰

The Queensland Inspector of Detention Services in 2024 found that children held in separation due to staff shortages, specifically ‘night mode’ separations, had limited meaningful contact with others.³²¹ Contact from staff and others was particularly minimal over the weekends.³²²

Meaningful activities and exercise

Children separated from others in detention have often had limited access to stimulation and activities to occupy themselves while isolated.

In the Northern Territory for example, a 2016 investigation by the NT Children’s Commissioner found that ‘at risk cells’ failed to satisfy the basic standards set in the Havana Rules requiring children to have sensory stimuli, opportunities for association with peers and time for recreation.³²³ The following year, the NT Royal Commission reported that in Don Dale Youth Detention Centre:³²⁴

Behaviour Management Unit journals repeatedly record detainees just lying on their beds or on the bare concrete slab. Usually, detainees had nothing to do in the cells. Occasionally, they would be given playing cards or something to read. Otherwise, apart from a radio playing into the cell at the discretion of staff, there was

nothing to occupy the detainee or to engage their mind: ‘They locked us in those cells all day ... so we had no basketball, and no school and no time to talk to anyone’.

Similarly, the Inspector of Custodial Services NSW found in 2018 that some children in detention had very little to occupy themselves while alone in their rooms – observing cases where children were provided only a pack of cards or a stress ball. Acknowledging that in some cases removal of belongings or items may be due to the risk of self-harm, the Inspector nevertheless concluded that providing a child with one item ‘is insufficient’, and options provided were ‘limited, and unlikely to usefully occupy a young person for an extended period of time’.³²⁵

Children’s access to education can also be limited while they are held in isolated conditions. The South Australian Training Centre Visitor for example found that classes are often cancelled for children held in the Frangipani Unit as part of a ‘protective actions response’.³²⁶

In some detention centres, children may be provided ‘education packs’, however the effectiveness of these has been called into question ‘in such an unsettled environment’.³²⁷ The ACT Human Rights Commission in 2019 for example found that often the educational materials were inadequate for the needs and capacities of children held in segregation.³²⁸

The Victorian Commission for Children and Young People found in 2017 that even when young people held in isolated conditions were provided educational material through the doors of their rooms, they ‘struggled to do the work alone and lacked motivation to complete the set tasks’.³²⁹

There are also often limited opportunities for children who are separated to engage in activities, education and programs, and exercise outside of the room in which they are held.³³⁰ The ACT Human Rights Commission for instance encountered evidence of cases where young people were not being provided with reasonable access to open air and exercise daily.³³¹

In Queensland, children separated due to staff shortages are often ‘severely limited’ in their ability to engage in physical and recreational activity.³³² Further, where children are permitted out of their room, they often use this time to make phone calls – further limiting their opportunities to exercise and socially interact with their peers in the detention centre.³³³

In Victoria, reviews have found that even where children are separated but are entitled to access to normal programs, detention centre resource limitations often result in children missing these programs and spending less than 3.5 hours outside of their room each day.³³⁴

Medical and other support

The Queensland Inspector of Detention Services in 2024 raised particular concerns about children in night mode separation having only limited meaningful contact while separated.³³⁵ In particular, records indicated that contact outside of the accommodation, where children attend a visit from a family member or lawyer, or a medical appointment, 'are not regular or frequent'.³³⁶ Psychologists and caseworkers had to have conversations with children in night mode separation through a grill at the bottom of the door to each room, which did not allow them to see the child, or allow the child privacy with respect to information around their health and wellbeing.³³⁷ Children were also not able to participate in restorative practices, such as 'couch time' conversation sessions while separated.³³⁸ While it is positive to note that the Queensland Inspector of Detention Services concluded that the provision of health services to children detained at Cleveland Youth Detention Centre 'has not been interrupted by the centre's prolonged use of separation' specific concerns were raised about children subject to separation accessing proactive therapeutic services and being afforded appropriate privacy while doing so.³³⁹

In Queensland, policy requires a First Peoples child who is separated for 2 consecutive days or longer to be provided support from a cultural unit staff member or cultural liaison officers.³⁴⁰ Detention centre staff have stated that visits from cultural support staff 'create a more relaxed atmosphere' in the youth detention centre, but these visits are 'infrequent' due to staff vacancies.³⁴¹ The Inspector heard from First Peoples children that they did not receive visits from cultural Elders groups, and yarning circles were not in use.³⁴² Ensuring guaranteed access to culturally appropriate support for First Peoples children is essential. This must not only be provided for in policy but delivered in practice.

5.4 Record keeping and reporting

Numerous inspections and inquiries have encountered significant issues with record keeping relating to isolation of children.

The ACT Human Rights Commission for example found in 2019 that the 'record keeping in relation to segregation directions [at Bimberi Youth Justice Centre] was inconsistent, with varying amounts of information available on the register regarding the reasons for the direction and any other factors that would justify a belief that the relevant criteria for segregation have been met'.

The Inspector for Custodial Services in NSW found during their inspection of Frank Baxter Youth Justice Centre in 2019 that 'that young people who were placed in their rooms for 22 hours per day were not formally recorded as being segregated'. The Inspector additionally found issues with record keeping across other youth detention centres in the State, such as the poor management of digital and hard copy records, and delays inputting information - which in some cases also delayed subsequent oversight mechanisms such as notifying the Ombudsman.

The NT Royal Commission also expressed concerns around record keeping, stating that they found instances of closed-circuit television footage being deleted (after the minimum retention period) despite multiple police requests that it be provided to them for the purpose of an investigation, non-compliance with basic requirements such as supervisor sign offs, and delays in preparing records. The inquiry also identified examples of records, including about the use of force against detainees, that were 'sanitised or misleading'.

These findings led to the Royal Commission observing that:

These failings have created a situation where records of the activities that occurred in youth detention centres about very serious matters, such as the use of force against detainees, cannot be assumed to be complete and accurate records of the events. Further, the absence of a record about a particular event cannot be assumed to indicate that the event did not occur.

The Queensland Inspector for Detention Services found in 2024 that Cleveland Youth Detention Centre ‘does not maintain adequate records on its decisions about separations’.³⁴³

In South Australia, the Training Centre Visitor found that there was ‘no clear, centralised record of a young person’s movement during their time in the Centre’ – making it difficult to ascertain for example the amount of time children spent outside of their rooms.³⁴⁴

The Office of the Custodial Inspector Tasmania has previously described challenges in directly comparing out of room data between years due to changes in recording methods. The manual recording of data was also described as being ‘prone to error’ with ‘numerous discrepancies’ being found with respect to the out of room data recorded at the Ashley Youth Detention.³⁴⁵

Maintaining clear and detailed records of children being placed in isolated conditions is critical. The importance of this was recently highlighted by the Australian National Preventive Mechanism which has called for ‘progress to ensure consistent data capture and public reporting, across the country, on the use of isolation practices in youth detention’.³⁴⁶

5.5 Safeguards and oversight

Inquiries have also raised concern about the efficacy of approvals and oversight mechanisms as safeguards to placing children in isolated conditions.

In NSW for example, despite the existence of the requirement to have regard to the age, mental condition or development of the child in decisions on around segregation, inspections have found that children in some centres were treated ‘substantially the same’ while in continuous segregation.

The NT Royal Commission expressed concern about the lack of consideration given to alternatives to isolation, such as ‘separating a young person for a short time, helping them to calm down, monitoring their behaviour and keeping them in isolation for no longer than necessary to protect another person’s safety, or to maintain order and security at the detention centre’ before approvals for extended isolation were given.

Similarly in Victoria, the Commission for Children and Young People found in 2017 that there was ‘little evidence of individualised approaches [to separation]...that considered the child or young person’s circumstances, the incidents leading to them being separated, or any exploration of strategies to support the child or young person to successfully transition back to their unit and remain there safely’.

The Training Centre Visitor in South Australia found that AYTC fails to ‘only use restrictive, disciplinary and intrusive practices [such as isolation] when no alternative method is available’. Further, the Centre does not have due regard to children’s individual characteristics and right to privacy.

In other jurisdictions, there was evidence of unexplained differences in segregation decisions. In the ACT for example, ACT Human Rights Commission found in 2019 that:

There were, at times, inconsistent and inequitable approaches to decisions about issuing segregation directions, so that one young person might be put in segregation and another young person might not be for similar conduct, and that young people would notice these inconsistencies.

The NT Royal Commission highlighted the alarming practice of authorising bodies outright ‘ignoring the law’, including through providing permission for isolation ‘on a rolling basis’, or circumventing approval-related safeguards through isolating children based on individual ‘intensive management plans’.

In Victoria, the Commission for Children and Young People’s inquiry into the use of isolation, separation and lockdowns in Victorian youth justice centres found in 2015-16 that an alarming 73% of isolation decisions were improperly authorised. A review of Victoria’s youth justice system confirmed in 2017 that ‘appropriate authorisation processes are often not followed before young people are placed in isolation, separation or lockdown. The cause of this is unclear’.

Also in the Northern Territory, the NT Children’s Commissioner found that despite requirements to ensure ‘rip proof’ clothing and mattresses to children isolated due to risk of self-harm, provided clothing was still susceptible to tearing where a loose thread was found, was confronting to wear for the children, and had been used for attempted

self-harm. Responses to these issues were also alarming. In 2015 for instance, there was a case where, following attempts of self-harm, clothing and bedding was taken away from the child, who was then left 'naked for a period of 10 hours and 55 minutes, and without bedding for 12 hours and 18 minutes' in an 'at risk' cell.

The Queensland Inspector of Detention Services in 2024 reported several issues regarding compliance with legislative safeguards. This included a failure to observe children at the required frequencies (every 15 minutes for some, every 10 minutes for those assessed as requiring this).

There is in some jurisdictions, a lack of transparency around the entitlements children in isolation have, and the safeguards to protect their rights, health and wellbeing. Often these entitlements are articulated in internal policy and procedure documents, which are not always readily available to the public.

5.6 Flow-on impacts

Holding children in isolated conditions, particularly for extended periods, causes the children harm and makes detention centres less safe. Evidence from across Australia suggests that solitary confinement and similar practices are not effective in addressing the issues they are designed to address and can be counterproductive. This has implications for the safety of children, staff and the broader community.

In the ACT, children who have been subject to solitary confinement and similar practices have said that 'being segregated in these conditions did not give them incentive to change the behaviour that had landed them in segregation or take care of their surroundings, rather it had the opposite effect'.

In South Australia, the Training Centre Visitor found that 61.2% of incidents at the centre between 2022-2023 related to isolation, or modified routines, such as disrupting exercise periods due to staffing shortages. For some children, particularly those with experience of trauma, being left alone in their room is a 'significant trigger' for behaviour such as self-harm.

In Western Australia, the Inspector of Custodial Services also emphasised in 2023 that more time locked in a cell, for example due to staffing issues, 'increases the young people's anxieties, anger and frustration and some respond negatively towards themselves, others and infrastructure/ property'.

The NT Children's Commissioner also found that the isolation of children within detention settings in the territory led to 'further outbursts' in behaviour, increased agitation and self-harm.

Isolating children who are already self-harming, or threatening self-harm is highly detrimental to their health and wellbeing if not managed appropriately. The Australian Children's Commissioners and Guardians have emphasised that 'where children and young people are at risk of suicide or self-harm, isolation is likely to increase their distress and suicidal ideation'.

Holding children in isolated conditions for extended periods is not only inappropriate – it is harmful. These practices have been linked to a breakdown in trust between children and staff, reduced communication (including uncertainty about how long children will be confined), and feelings of abandonment and distress when time out of rooms is severely limited. Critically, excessive lockdowns and prolonged isolation have been identified as contributing to unrest in youth justice centres.

Further, Australian inquiries have found that holding children may increase the risk of reoffending. For example, the Tasmanian Commission of Inquiry, which investigated the experiences of children in youth detention, heard evidence that there was a clear correlation between detention at Ashley Youth Detention Centre, and later incarceration as adults in Tasmanian Risdon Prison.³⁴⁷ Similarly, the Australian Institute of Criminology highlighted that a key theme arising from reviews into youth justice in Australia is that detention 'is often detrimental and has little benefit in reducing recidivism'.³⁴⁸

6. Regulation of solitary confinement and similar practices in Australia

Regulation of solitary confinement in youth detention varies widely across Australian jurisdictions, with no unified national approach. Terminology and definitions differ, making it difficult to monitor and address the practice consistently. While some standards exist around physical conditions, access to necessities, social interaction, meaningful activity, and medical support, they are inconsistently applied. Variation in oversight and record keeping also inhibits transparency and accountability.

As management of youth detention is the responsibility of states and territories, each jurisdiction has its own legislation governing the use of solitary confinement and similar practices in Australia. Often a jurisdiction will have primary legislation concerning youth detention as well as accompanying subordinate legislation (regulations).

Table 3. State and territory legislation

State/Territory	Legislation
ACT	<i>Children and Young People Act 2008</i> (ACT)
NSW	<i>Children (Detention Centres) Act 1987</i> (NSW) <i>Children (Detention Centres) Regulation 2015</i> (NSW)
NT	<i>Youth Justice Act 2005</i> (NT) <i>Youth Justice Regulations 2006</i> (NT)
Qld	<i>Youth Justice Act 1992</i> (Qld) <i>Youth Justice Regulation 2016</i> (Qld) <i>Corrective Services Regulation 2017</i> (Qld)
SA	<i>Youth Justice Administration Act 2016</i> (SA) <i>Youth Justice Administration Regulations 2016</i> (SA)
Tasmania	<i>Youth Justice Act 1997</i> (Tas)
Victoria	<i>Children, Youth and Families Act 2005</i> (Vic) <i>Children, Youth and Families Regulations 2017</i> (Vic) <i>Youth Justice Act 2024</i> (Vic) <i>Youth Justice Regulations 2025</i> (Vic)
WA	<i>Young Offenders Act 1994</i> (WA) <i>Young Offenders Regulations 1995</i> (WA)

This report reflects the law across Australia as at October 2025. Victoria has recently enacted the *Youth Justice Act 2024* (Vic), introducing important reforms to youth detention practices, including provisions that go some way toward addressing recommendations made in this report. For example, the new laws define solitary confinement pursuant to the Mandela Rules and prohibit the use of solitary confinement in relation to children held in custody in youth detention centres.³⁴⁹ At the time of writing, many of the key provisions have not commenced, including those relating to isolation and solitary confinement.³⁵⁰ The *Children, Youth and Families Act 2005* (Vic) continues to govern the use of isolation and seclusion in youth detention settings in Victoria at the time of writing.

The ACT, Queensland and Victoria also have specific human rights legislation.³⁵¹ These laws incorporate key civil and political rights, including the right to humane treatment when deprived of liberty, the protection of children, and the right to be free from cruel, inhuman or degrading treatment. Unlike international human rights instruments, these domestic laws are directly enforceable in their respective jurisdictions and impose legal obligations on public authorities to act compatibly with human rights and to properly consider human rights when making decisions.

While there have been no judicial decisions on cases in which the use of solitary confinement on children has been challenged under these Acts, there is precedent for successful legal action in relation to adults. In *Owen-D'Arcy v Chief Executive, Queensland Corrective Services*³⁵², the Supreme Court of Queensland found that prolonged solitary confinement limited the right to humane treatment when deprived of liberty under s 30 of the *Human Rights Act 2019* (Qld). This example demonstrates the potential for domestic human rights legislation to provide stronger protections against harmful practices such as solitary confinement.

A range of procedures, practice instructions and inspection standards across various jurisdictions also apply to the use of solitary confinement and similar practices in youth detention in Australia.³⁵³

6.1 Absence of a unified approach to solitary confinement and similar practices

Regulation of solitary confinement and similar practices against children in youth detention lacks consistency. The terminology, definitions, grounds, permissible duration, conditions, and safeguards for solitary confinement and similar practices differs between states and territories, in some cases quite significantly. This can lead to a 'postcode lottery' for children, when their rights, dignity and lives can be at stake. It further limits transparency and accountability as direct comparisons across the nation are made difficult by the lack of uniformity.

A consistent and coordinated approach to solitary confinement and similar practices in youth justice is urgently needed to protect and promote the dignity and human rights of all children in detention across the country. Such an approach should reflect children's rights as protected under international human rights law.

6.2 Terminology and definitions

Recommendation 5:

States and territories should expressly define solitary confinement in legislation pursuant to international human rights law and standards.

Recommendation 6:

All state and territory legislation should clearly and consistently define any other terms used to describe isolation practices (as distinct from solitary confinement) used in youth detention settings.

Australian laws do not use consistent terminology for the placement of children away from others in detention settings, instead adopting a variety of terms such as ‘isolation’, ‘separation’, ‘segregation’, ‘seclusion’, ‘exclusion’ and ‘confinement’.

The meaning of these terms varies between jurisdictions, in some cases signalling distinct forms and degrees of isolation and conditions.

The definitions that are used can have significant practical implications. For example, the South Australian Training Centre Visitor recently observed that legislative ambiguities in defining isolation in law and practice ‘have resulted in interpretative challenges and dispute’ and given rise to ‘risk to children and young people’. While the *Youth Justice Administration Act 2016* (SA) prohibits isolation or segregation unless authorised under prescribed circumstances involving a strict authorising and regulatory framework, the legislation also permits the establishment of ordinary routines within a training centre that are not required to comply with that same framework. Children have been isolated as part of the ‘ordinary routine’ of the youth detention facility, ‘such as being locked in their cell alone overnight, or during shift handover periods’, outside of the strict authorising and regulatory framework that is otherwise meant to govern the use of isolation in youth detention centres in South Australia.

Practices have been operationally defined as ‘ordinary routine’ rather than ‘isolation’ even though both will involve a child being locked alone in their room. It means that ‘children and young people are frequently locked alone in their rooms under conditions not formally recorded as isolation, but which, results in the same experience for the child or young person’. The Training Centre Visitor has emphasised that:

These legislative gaps are not an academic matter. They raise fundamental questions about whether a broad range of isolation practices that are currently used by the AYTC are in fact lawful, authorised and comply with relevant substantive and procedural rights protections.³⁵⁴

Table 4. Statutory terms

Jurisdiction	Term(s)	Meaning
ACT	Segregation	Restricting or denying a child the opportunity to go into/ be in a part of the place of detention, or associate with other children, and includes separate confinement. ³⁵⁵
NSW	Separation	Separating a ‘class’ of children, or a child or a group of children from other children for the purpose of ensuring the security, safety and good order of a detention centre. ³⁵⁶
	Segregation	Segregating a child to protect the personal safety of that or any other child, or of any other person. ³⁵⁷
	Exclusion/ confinement	Exclusion from or confinement to a place for a limited period. ³⁵⁸
NT	Separation	Separating a child from other children. ³⁵⁹
Qld	Separation	Separating a child in a locked room. ³⁶⁰
SA	Isolation	Isolating a child from other residents of the centre by placing them in a locked room (which may be the child’s bedroom) and keeping them apart from the normal routine of the centre. ³⁶¹
	Segregation	Placing a child on an ‘individualised regime’ separate from the normal routine, that allows only restricted contact with other children. ³⁶²
Tasmania	Isolation	Locking a child in a room separate from others and from the normal routine of the detention centre. ³⁶³
Victoria	Isolation	Placing a child in a locked room separate from others and the normal routine of the centre. ³⁶⁴
	Seclusion	Placing a child in a locked room separate from others and from the normal routine of the secure welfare service. ³⁶⁵
WA	Confinement	Confining a child to their sleeping quarters or a designated room. ³⁶⁶

As the above table illustrates, definitions differ in specificity. For example, 2 jurisdictions (Qld and WA) centre their definitions on locking or confining a child to a room. Six jurisdictions (ACT, NSW, NT, SA, Tasmania, Victoria) recognise separation of children from their peers and others, and 3 jurisdictions (SA, Tasmania, Victoria) expressly acknowledge the removal of children from the regular routine of the detention centre.

Some jurisdictions use multiple terms to differentiate between practices. For example, in South Australia, the difference between isolation and segregation appears to be that in the former, children are completely cut-off from the normal routine of the detention centre, whereas in the latter children are permitted some, albeit restricted, contact with other children.³⁶⁷ Confusion can also arise where terms are inconsistently defined between legislation and regulations.³⁶⁸

No jurisdiction currently uses the term solitary confinement in its legislation. Vague and inconsistent terminology obscures the frequency and seriousness of solitary confinement as defined under international law. The Victorian Ombudsman has previously observed that:

‘Solitary confinement’, as a term, does not exist in official parlance in Victoria. But the practices that may lead or amount to solitary confinement occur daily and exist by different names: isolation, separation, seclusion, lockdown.³⁶⁹

The absence of express reference to solitary confinement and lack of a consistent definition

represents a missed opportunity for Australian jurisdictions to consistently and expressly prohibit the practice in youth detention settings and bring practice into line with obligations under international human rights law.

The absence of clear definitions for terms and practices other than ‘solitary confinement’ may also give rise to confusion amongst detention centre staff about when safeguards against forms of isolation in detention apply. The need for a common, Australia-wide definition of isolation practices was recently highlighted by the Australian National Preventive Mechanism.³⁷⁰

A related concern is practices in detention that do not fall within definitions included in the legislation or statutory rules, such as ‘time outs’ (see Part 6.3 of this report). These may only be deployed for a short period of time but should nevertheless be recognised as having the serious potential for harm, particularly when used for longer periods due to the impact that being isolated can have on the physical and psychological wellbeing of a child, and the absence of integrative or rehabilitative objective of such practices.³⁷¹ In addition, inconsistent terminology for the placement of children away from others in detention settings risks masking systemic issues across Australia. Use of ‘overlapping, ambiguous, and inconsistent definitions of practices that may or may not equate to solitary confinement make monitoring difficult’.³⁷² Consistent definitions are an essential precondition to accurate record keeping and data collection.



6.3 Duration of solitary confinement and similar practices

Recommendation 7:

All state and territory legislation should specify maximum periods, both in terms of hours, and in terms of consecutive days where applicable, that a child may be isolated. This should include absolute maximum durations, beyond which no successive authorisation is permitted.

Recommendation 8:

When calculating the duration of any isolation, the entirety of the time that a child is held in isolation must be counted, including any overnight lockdown periods.

Recommendation 9:

State and territory legislation should provide for regular review of whether there are continuing grounds for isolation of a child at short, regular intervals. Where the grounds are not made out, isolation should end.

Recommendation 10:

State and territory legislation should include clear, specific and mandatory criteria for revoking a decision to isolate a child.

Recommendation 11:

State and territory legislation should require that isolation of children should be for the shortest possible duration.

Time limits on confining children in youth detention are inconsistent across state and territory legislation and provide insufficient safeguards against prolonged periods of confinement.

Table 5. Duration of solitary confinement and similar practices

Jurisdiction	Type	Time Limit
ACT	Segregation (all grounds)	All segregation must end after 28 days after directed. ³⁷³ Where further direction given, then 90 days after the further segregation is directed. ³⁷⁴ Must be initially reviewed within 7 days, with a second review 7 days after that, and then again every subsequent 14 days that it remains in force. ³⁷⁵
	Segregation (safe room)	≤2 hours (without review of Director-General). ³⁷⁶ Every successive 2 hours the Director-General must review. ³⁷⁷ Director-General must revoke where belief on reasonable grounds that grounds for making direction no longer exist. ³⁷⁸ The Director-General must seek/ have regard to advice of health practitioner about action to be taken as part of the review of segregation. ³⁷⁹
	Segregation (safety and security) ³⁸⁰	Must revoke when belief on reasonable grounds that it is no longer necessary or prudent.
	Segregation (protective custody) ³⁸¹	Must revoke when belief on reasonable grounds that it is no longer necessary or prudent.
	Segregation (health etc.) ³⁸²	Must revoke when belief on reasonable grounds that it is no longer necessary or prudent. Must have regard to advice by treating doctor.
	Segregation (interstate seg.) ³⁸³	3 days after child taken into custody.
NSW	Separation	Not specified.
	Segregation ³⁸⁴	'As short as practicable' and ≤3 hours (without approval of the Secretary).
	Exclusion and confinement. ³⁸⁵	Maximum 12 hours (child under 16 years of age). Maximum 24 hours (child over 16 years of age).
NT	Separation for protection of child or another or property ³⁸⁶	≤12 hours (without Chief Executive approval). Every successive 12 hours (Chief Executive must approve). Maximum 72 consecutive hours. Decision to separate must be reassessed every 2 hours. ³⁸⁷
	Separation for infectious disease or at request.	Not specified.
	'At risk' children	Only on the recommendation of a medical practitioner after consultation with a superintendent or member of staff. ³⁸⁸

Jurisdiction	Type	Time Limit
Qld	Separation ³⁸⁹	<p>≤2 hours (without Executive Director approval) ≥2 hours (with Executive Director approval). ≥12 hours (Chief Executive must be informed). ≥24 hours (Chief Executive must approve). Additional approval required for each 24-hour period thereafter. Where separation at request of child, must be released upon request of child.</p>
SA	Placement in a safe room ³⁹⁰	<p>Maximum 24 hours (12-14 years old) Maximum 48 hours (15 years or older)</p>
	Isolation ³⁹¹	<p>≤30 minutes (without notifying Manager). No longer than 'reasonably necessary' in the circumstances, OR ≤3 hours (unless Manager approves for longer). ≤24 hours (unless Manager believes circumstances are exceptional AND isolation approved by Chief Executive).</p>
	Segregation ³⁹²	<p>No longer than 'reasonably necessary' in the circumstances. Must not be prevented from contact with other children for more than 22 hours in a 24-hour period, unless that would be detrimental to the wellbeing of the child or other children. Centre manager must be informed 'as soon as practicable'.</p>
Tasmania	Isolation ³⁹³	Not specified. Must not contravene instructions of the Secretary.
Victoria	Isolation and seclusion ³⁹⁴	Not specified. Period of isolation must be approved by the Secretary.
WA	Confinement as punishment ³⁹⁵	<p>Where child has committed a detention offence, and either admits the charge or it is found to be proven. Maximum 24 hours when authorised by the superintendent. Maximum 48 hours when authorised by a visiting justice.</p>
	Confinement for good government, good order, or security. ³⁹⁶	<p>Maximum 24 hours. Superintendent can cut short a period of confinement and return child to appropriate program area.</p>

Only one jurisdiction (SA) clearly provides that children must not be isolated for durations that amount to solitary confinement (more than 22 hours in a 24-hour period). South Australia sets this limit for segregation but includes as a caveat 'unless that would be detrimental to the wellbeing of the child or other children' and does not extend this protection to placement in a safe room or isolation.³⁹⁷

Some jurisdictions do not specify any maximum period for confining children. Neither Tasmania nor Victoria specify legislative limits for placing children in isolation (or seclusion in the case of Victoria), leaving this largely to the approval by their respective authorities. In Tasmania, limitations on duration are provided under Ashley Youth Justice Centre's internal policies.³⁹⁸ Given the seriousness of the impacts of isolation on children, and the need for transparency around the practice of isolation, minimum standards should be stated in legislation so that they can be accessed and are available for public scrutiny.

Other jurisdictions set maximum periods before further review and approval is required but permit ongoing confinement. For example, in Queensland, the Executive Director must approve separation for longer than 2 hours, the Chief Executive must be informed for separation longer than 12 hours and can approve separation for longer than 24 hours, with additional approval permitted every 24 hours thereafter. In several jurisdictions, where the duration of isolation practices is open to the discretion of an authority, the basis for this determination is not specified, or is overly broad. In Western Australia for example, the maximum duration of confinement for good government, good order or security is 24 hours, although the Superintendent can shorten this period.³⁹⁹

Where limits on duration do appear in state and territory legislation, limits on the duration of isolation practices are often too lengthy. The Northern Territory for example allows for separation for up to 72 hours. The ACT further allows segregation directions to be in operation for up to 28 days from commencement, and a further 90 days from the directing of further segregation. These are unacceptably lengthy durations to keep a child isolated.

Mandatory review can, of course, be an important avenue for oversight. At present however, some jurisdictions allow for overly lengthy periods before review is required. For example, in the ACT the stated period is 7 days. Mandatory review periods should be much more frequent than this. In NSW, reviews are required at 2-hourly intervals, rather than being measured in days. Frequency of review should enable an assessment of whether there are continuing grounds for confining the child.

Some jurisdictions emphasise the need for children to be separated for the shortest possible duration. For example, NSW includes that segregation should be 'as short as practicable', but does not include the same safeguard for other forms of isolation (e.g. exclusion and confinement). To strengthen protections against the use of isolation on children in detention settings, all legislation and regulations should include a requirement that isolation be for the shortest duration necessary and practicable and should apply this standard consistently to all forms of isolation.

6.4 Grounds for solitary confinement and similar practices

Recommendation 12:

State and territory legislation should consistently use precise language specifying the grounds permitting the use of isolation where necessary as a last resort to prevent a child from self-harming, or to protect the safety and wellbeing of a child or others.

Recommendation 13:

All state and territory legislation should provide that a decision to isolate a child to protect the health of the child or others, (including a decision to continue or end the isolation) must be based on advice of a medical practitioner.

Recommendation 14:

State and territory legislation should require a reasonable belief that isolation is necessary, and not merely prudent.

Recommendation 15:

Isolation of children from others as a form of punishment should be expressly prohibited.

As stated by multiple international bodies, such as the CRC Committee, the CRPD Committee, the SPT, and the UN Special Rapporteur (see Part 3.1) children should never be held in solitary confinement. Where confinement of children for shorter periods is necessary, the grounds for this should be clearly identified, and accompanied by relevant and appropriate conditions. The grounds set out in legislation for solitary confinement and similar practices varies between states and territories in Australia.



Table 6. Grounds for solitary confinement and similar practices

Jurisdiction	Type	Authoriser	Grounds	Requirements and conditions
ACT	All forms	Varies	See below.	Must not be used as a form of punishment. ⁴⁰⁰
	Segregation (safe room)	Director-General can authorise.	To prevent imminent risk of a child self-harming. ⁴⁰¹	Belief on reasonable grounds that is necessary to prevent an imminent risk of self-harm, ⁴⁰² <i>and</i> less restrictive ways have been unsuccessful <i>or</i> were considered and deemed to be inappropriate, ⁴⁰³ <i>and</i> regard is had to the child's age, sex, maturity, cultural identity, physical and mental health and any history of abuse. ⁴⁰⁴
	Segregation (safety and security)		To ensure safety of others, or security or good order. ⁴⁰⁵	Belief on reasonable grounds that is necessary or prudent, ⁴⁰⁶ <i>and</i> as far as practicable regard is had to any relevant cultural consideration and the likely impact of segregation on the wellbeing of the child. ⁴⁰⁷
	Segregation (protective custody)		To protect a child's safety. ⁴⁰⁸ At child's request. ⁴⁰⁹	Belief on reasonable grounds that is necessary or prudent. ⁴¹⁰
	Segregation (health etc.)		To assess a child's physical or mental health. ⁴¹¹ To protect anyone (including the child) from harm due to child's physical or mental health. ⁴¹² To prevent spread of disease. ⁴¹³	Belief on reasonable grounds that is necessary or prudent, ⁴¹⁴ <i>and</i> regard is had to advice by treating doctor given in relation to the child. ⁴¹⁵
	Interstate segregation	Relevant interstate authority.	For interstate transfers. ⁴¹⁶	Where interstate segregation direction applies. ⁴¹⁷

Jurisdiction	Type	Authoriser	Grounds	Requirements and conditions
NSW	Separation	Secretary can authorise.	To ensure security, safety and good order. ⁴¹⁸	None specified.
	Segregation	Centre Manager (CM) can authorise.	To protect the personal safety of child, or any other person. ⁴¹⁹	Belief on reasonable grounds that a child should be segregated, ⁴²⁰ <i>and</i> the nature and duration is reasonable with regard to the age, mental condition and development of a child in deciding nature and duration, ⁴²¹ <i>and</i> child is not segregated as a form of punishment, ⁴²² <i>and</i> CM satisfied that there is no 'practical alternative means' to protect safety, <i>and</i> the segregation is as short as practicable. ⁴²³
	Exclusion/ confinement	CM can authorise.	As punishment for misbehaviour. ⁴²⁴	Time limits apply depending on age range, ⁴²⁵ <i>and</i> child cannot be subject to treatment that 'could reasonably be expected to be detrimental' to their physical, psychological and emotional well-being, ⁴²⁶ <i>and</i> child cannot be punished in contravention to the provision on segregation, or as prohibited under the regulations. ⁴²⁷
NT	Separation	Superintendent can authorise.	To protect the child or another person, or property. ⁴²⁸	Where reasonably necessary, ⁴²⁹ <i>and</i> all reasonable behavioural or therapeutic measures are attempted and have failed ⁴³⁰ <i>and</i> no other course of action is reasonably practicable. ⁴³¹ In an emergency situation, separation can be authorised if no other course of action is reasonably practicable. ⁴³²
			Where the child is believed to have infectious disease. ⁴³³	Belief is on 'reasonable grounds'. ⁴³⁴
			At request of child. ⁴³⁵	Satisfied there is a 'good reason' for this. ⁴³⁶
	'At risk'	Member of staff can authorise.	Where a child is considered to be 'at risk' of self-harm. ⁴³⁷	None specified.

Jurisdiction	Type	Authoriser	Grounds	Requirements and conditions
Qld	Separation	Employee of the centre can authorise.	To protect the child or another person, or property. ⁴³⁸ Where the child is ill. ⁴³⁹ At the request of the child. ⁴⁴⁰ For 'routine security purposes under Chief Executive's Direction (e.g. overnight lockdown). ⁴⁴¹ To restore order in the detention centre. ⁴⁴²	If at the request of the child, must be released upon request. ⁴⁴³
SA	Placement in a safe room	Employee of the centre can authorise.	Where child is 'about to' harm themselves or another. ⁴⁴⁴ Where child is 'about to' cause significant damage to property. ⁴⁴⁵ Where it is necessary in order to maintain order or preserve security in the centre. ⁴⁴⁶	Belief on reasonable grounds. ⁴⁴⁷ Must not be used for children under 12. ⁴⁴⁸
	Isolation	Employee of the centre can authorise.		Must not be used as punishment. ⁴⁴⁹
			To protect child's safety from others. ⁴⁵⁰	Belief on 'reasonable grounds' that this is needed. ⁴⁵¹
			Where child's behaviour a threat to others. ⁴⁵²	Belief on 'reasonable grounds' that behaviour presents a threat, ⁴⁵³ <i>and</i> All other de-escalation actions have failed. ⁴⁵⁴
			Where it is necessary to maintain order or preserve the security of the centre. ⁴⁵⁵	Belief on 'reasonable grounds' that this is necessary. ⁴⁵⁶

Jurisdiction	Type	Authoriser	Grounds	Requirements and conditions
SA	Segregation	Employee of the centre can authorise.		Must not be used as punishment.
			To protect child's safety from others.	Belief on 'reasonable grounds' that this is needed.
			Where child's behaviour a threat to others.	Belief on 'reasonable grounds' that behaviour presents a threat, <i>and</i> All other de-escalation actions have failed.
			Where it is necessary to maintain order or preserve the security of the centre.	Belief on 'reasonable grounds' that this is necessary.
Tasmania	Isolation	Detention Centre Manager can authorise.	Immediate threat to a child's safety or the safety of another person or property. ⁴⁵⁷	All other reasonable steps have been taken to prevent the child from harming themselves, others or property <i>and</i> were unsuccessful ⁴⁵⁸ Must not be used as a form of punishment. ⁴⁵⁹
			Isolation is in the interests of the security of the centre. ⁴⁶⁰	Must not be used as a form of punishment. ⁴⁶¹
Victoria	Isolation	Officer in charge of the centre can authorise.	Immediate threat from the child's behaviour to their safety or the safety of another, or to property. ⁴⁶²	All other reasonable steps have been taken to prevent harm. ⁴⁶³ Must not be used as a form of punishment. ⁴⁶⁴
	Seclusion	Secretary can authorise.	Immediate threat from the child's behaviour to their safety or the safety of another, or to property. ⁴⁶⁵	All other reasonable steps have been taken to prevent harm. ⁴⁶⁶ Must not be used as a form of punishment. ⁴⁶⁷
WA	Confinement	Superintendent or visiting justice can authorise.	As a way to deal with a child who has committed a 'detention offence'. ⁴⁶⁸ To maintain good government, good order or security. ⁴⁶⁹	None specified.

Common grounds for solitary confinement and similar practices, include responding to a risk of a child self-harming and to prevent harm to others (all jurisdictions other than WA). In the ACT, to justify segregation, there must be an *imminent* risk of self-harm. In Victoria and Tasmania, the threat to other persons or property must be *immediate*.

Several jurisdictions permit isolation of children to prevent damage to property (NT, Qld, SA, Tasmania, Victoria). While the complex needs and behaviours of some children in detention may place property at risk, isolating children from others can often lead to further agitation and distress and may give rise to repeated challenging behaviour.

Legislation in NT, SA, Tasmania and Victoria makes clear that separation of a child from others should only occur after all other measures have been attempted and exhausted. Other states such as NSW, Qld and WA do not specify that such action should be a last resort only.⁴⁷⁰ The ACT and SA apply the last resort test only to certain types of separation. This is despite the *National Standards for Youth Justice in Australia* recognising that separation should only be used 'as a last resort' and only 'when absolutely necessary'.⁴⁷¹

Some legislation includes broad grounds for isolating children to maintain order. Legislation in Tasmania and Victoria authorises the isolation of a youth detainee where it is 'in the interests of the security of the centre'.⁴⁷² Five jurisdictions (ACT, NSW, Qld, SA and WA) allow for the separation of children from others in order to maintain or restore 'order' in a detention setting. Such broad permissible circumstances do not reflect the gravity of harms that children can experience when separated from others and should be narrowed.

Isolation should only occur when necessary in exceptional circumstances as a proportionate response to protect the child or others from harm and should never meet the definition of solitary confinement. As identified by the CRC Committee, separation should only occur as a last resort. Other reasonable measures to de-escalate the situation and prevent harm should be exhausted. Inclusion of specific grounds can reduce over-reliance on practices that isolate children.

Several jurisdictions permit isolation due to illness, disease or to protect health (ACT, NT, Qld, SA). Such grounds can serve to protect the health and wellbeing of all children in detention settings.

Some jurisdictions (NT, Qld, SA), however allow non-medical officers to determine illness or suspected illness, placing children at risk of arbitrary placement in isolated conditions. For example, in the NT, the superintendent must have a reasonable belief that a child has an infectious disease.⁴⁷³ In SA, an employee of the centre can make such a determination, subject to considering whether an assessment of the child's health should be made by a medical practitioner.

Decisions to isolate children on the basis of actual or suspected illness, the prevention of disease, and the protection of health should always be based on the assessment and advice of a medical practitioner and should be subject to review so that the period of confinement is not unnecessarily prolonged.

Grounds that require a 'reasonable belief' that isolation is *necessary* should not be weakened by the inclusion of language such as 'necessary or prudent' (ACT). The term 'prudent' introduces a broader and more discretionary basis for isolation, which risks lowering the threshold for its use. This undermines the protective intent of the provision by allowing isolation in circumstances where it may be considered merely advisable or cautious, rather than strictly required. To ensure that isolation is used only in the most limited and justified circumstances, the legal test should be confined to situations where it is reasonably believed to be *necessary*.

The ACT, Tasmania and Victoria expressly prohibit isolating practices as a form of punishment. South Australia provides that isolation and segregation cannot be used to punish the individual, but does not expressly prohibit this with respect to detention in a safe room.⁴⁷⁴ Regulations in WA allow confinement of a child as means of dealing with a child who has committed a detention offence.⁴⁷⁵ Offences that may lead to confinement vary in severity, and include for instance disobeying a rule, using insulting or threatening language, insubordination or misconduct, as well as more serious offences such as assault or possession of a weapon.⁴⁷⁶ The NT does not expressly prohibit isolation as punishment but does prohibit separation for purposes other than as permitted under the legislation. In NSW, segregation as punishment is prohibited, but exclusion and confinement as punishment is permitted. Exclusion and confinement are limited to no more than 12 hours for those aged less than 16, and no more than 24 hours for those aged over 16.⁴⁷⁷

6.5 Conditions of solitary confinement and similar practices

Recommendation 16:

All state and territory legislation should specify consistent minimum standards for conditions in which children are isolated, including with respect to:

- the physical environment
- necessities including food, water, and hygiene
- social interaction including contact with family
- access to meaningful activities and outdoor exercise
- access to legal, medical and other support services.

These minimum standards should reflect the unique vulnerabilities and needs of children.

Minimum standards for conditions in which children are isolated are central to the protection of their dignity and wellbeing. Poor conditions can intensify the harmful impacts of isolation and undermine rehabilitation, especially when the isolation is for extended periods.



Table 7. Conditions of solitary confinement and similar practices

Jurisdiction	Type	Conditions
ACT	Segregation (all grounds)	<p>(Living standards) Must not affect the living standards of a child in detention (except as necessary and reasonable).⁴⁷⁸ These are access to:⁴⁷⁹</p> <ul style="list-style-type: none"> Sufficient nutritional food Sufficient suitable clothing Suitable facilities for personal hygiene Suitable accommodation and bedding for sleeping Access to open air and exercise (2 hours each day)⁴⁸⁰ Access to telephone, mail and other facilities for communicating with the community Reasonable opportunity to receive visits Reasonable opportunity to communicate with lawyers Reasonable access to news and education services and facilities. (Education should be suited to individual needs)⁴⁸¹ Suitable health services Reasonable opportunities for religious, spiritual and cultural observances. <p>(Communication) Must not unreasonably deprive a child generally of all communication with others.⁴⁸²</p>
	Segregation (safe room)	<p>(Space) Designated by the Director-General when satisfied that:⁴⁸³</p> <ul style="list-style-type: none"> Design of the room will minimise harm child can do to themselves in the room. Allows monitoring of, and communication with child by Director-General and health practitioners.
NSW	Separation	Not specified.
	Segregation	<p>(Space) Physical environment should be no less favourable, unless otherwise appropriate, than that which child occupies outside of segregation.⁴⁸⁴</p> <p>(Activity) Child should be provided with ‘means of usefully occupying’ themselves in segregation.⁴⁸⁵</p> <p>(Visibility/ communication) Child must be visible to, and able to readily communicate with, detention centre officer.⁴⁸⁶</p>
	Exclusion and confinement	<p>(Space) Physical environment should be no less favourable, unless otherwise appropriate, than that which child occupies outside of segregation.⁴⁸⁷</p> <p>(Activity) Child should be provided with ‘means of usefully occupying’ themselves in segregation.⁴⁸⁸</p> <p>(Visibility/ communication) Child must be visible to, and able to readily communicate with, detention centre officer.⁴⁸⁹</p>

Jurisdiction	Type	Conditions
NT	Separation (all grounds)	<p>(Communication) Child must have regular, ongoing meaningful contact with detention staff for monitoring health, encouraging reintegration and assisting child with situation leading to separation.⁴⁹⁰</p> <p>(Family) Child must be allowed to see family member(s).⁴⁹¹</p> <p>(Access to support) Child must be allowed to see medical practitioner, counsellor or psychologist, case worker, legal practitioner, nominated person.⁴⁹²</p> <p>(Education/ Activity) Child must have access to education and education materials, appropriate recreation materials,⁴⁹³</p> <p>(Basic Needs) child must have access to basic human necessities including toilets, food, clean drinking water, showers and sunlight.⁴⁹⁴</p> <p>(Exercise) for separation over 3 hours, child must be given access to outdoor exercise or recreation for at least 15 minutes of every 3 hours between 8 am – 6pm.⁴⁹⁵</p>
	'At risk' children (Emergency Management Plan)	<p>(Space) the observation room must be carefully checked for unauthorised or potentially hazardous objects before child is brought in. The room must be furnished with a mattress and bedding made of rip-proof and non-flammable material. All potentially harmful items must be removed from child's possession.⁴⁹⁶</p> <p>(Basic Needs) the child must be provided with 'adequate fluids and food suitable to be eaten without cutlery'. If considered necessary, child may be 'clothed in rip proof material'.⁴⁹⁷</p>
Qld	Separation	<p>(apply to adults and children alike)</p> <p>(Living standards) children undergoing 'separate confinement' must have access to reticulated water, a toilet and shower facilities constructed in a way to prevent the child from associating with others, bedding as the child would have outside of separate confinement), appropriate clothing, fresh air for 2 daylight hours, unless health practitioner advises that this is not in the interests of the child's health 'for a stated period or indefinitely'.⁴⁹⁸</p>
SA	Placement in safe room	Not specified.
	Isolation	<p>(Communication) Must not limit the ability of the child to communicate with employees of the centre at any time.⁴⁹⁹</p> <p>(Activity) child must, 'if possible', be provided with mental or physical stimulation that does not threaten their safety.⁵⁰⁰</p>
	Segregation	<p>(Communication) Must not limit the ability of the child to communicate with employees of the centre at any time.⁵⁰¹</p> <p>(Exercise/ Activity) Must not limit child's access to regular exercise periods or other stimulation.⁵⁰²</p> <p>(Visitors) Must not restrict child's access to contact with visitors (in person or via telephone) beyond what is normally allowed.⁵⁰³</p> <p>(Access to services) as far as reasonably practicable, child must maintain access to education, health and rehabilitative services.⁵⁰⁴</p>

Jurisdiction	Type	Conditions
Tasmania	Isolation	Not specified.
Victoria	Isolation and seclusion	Not specified.
WA	Confinement as punishment	<p>(Space) The room for confinement must be assessed by the Superintendent to be ‘of an appropriate size and sufficiently ventilated and lit’ so that the child can be confined ‘without injury to health’.⁵⁰⁵</p> <p>(Fresh air/exercise) The child is entitled to fresh air, exercise and staff company for at least 30 minutes every 3 hours (during the day).⁵⁰⁶</p>
	Confinement for good government, good order, or security.	<p>(Space) The room for confinement must be assessed by the Superintendent to be ‘of an appropriate size and sufficiently ventilated and lit’ so that the child can be confined ‘without injury to health’.⁵⁰⁷</p> <p>(Exercise) child confined for 12 hours or longer entitled to one hour of exercise every 6 hours (during the day).⁵⁰⁸</p>

Not all jurisdictions contain express requirements for the conditions in which children are to be isolated. Absence of clear minimum standards in the legislation, such as in Tasmania and Victoria for example, leaves children vulnerable to being held in spaces that lack adequate natural light and stimuli, with limited access to clean bedding, sanitary facilities, and sufficient food and water. It may also drastically reduce or prevent their opportunities to interact with peers, detention centre staff, and families. Children may be denied exercise, participation in activities, or learning in accordance with their needs and abilities – all of which have been established as minimum requirements under international law and standards.

Establishing nationally consistent minimum standards would help to ensure that equal treatment is applied to all children, regardless of the jurisdiction in which they are held. It would help to promote accountability, facilitate oversight, and support compliance with Australia’s international human rights obligations. Consistency also enables better data collection and policy evaluation, helping to identify and address systemic issues more effectively.

Where legislation specifies minimum requirements, this varies between jurisdictions.

The ACT legislation, for instance, contains broad provisions concerning minimum conditions, including necessities such as clothing, bedding and hygiene, as well as access to open air, exercise, activities, visits, information and education, and health services.⁵⁰⁹ Legislation in the NT contains minimum requirements relating to toilets, showers, sunlight, outdoor exercise (minimum 15 minutes every 3 daytime hours), access to education and related resources, meaningful communication with staff and contact with family, as well as access to legal, medical and other support services.⁵¹⁰

Physical environment

While there may be some differences between jurisdictions or settings, a consistent set of minimum requirements should address specific aspects of the conditions and ensure that the environment promotes the rehabilitative aim of detention. The first of these is physical environment. In the ACT for instance, rooms designated for safe room segregation must be designed to minimise harm that children can do to themselves and enable monitoring and communication.⁵¹¹ In the NT, rooms for holding ‘at risk’ children must be carefully checked for ‘unauthorised’ material that could be used by children to self-harm.⁵¹²

Necessities

Minimum standards should also ensure children's access to basic necessities, such as clean bedding, clothing, adequate food and water, access to sanitation, and regular and sufficient time in open air and sunlight, as well as the opportunity to exercise. In the Northern Territory for example, children must have access to toilets, food, clean drinking water, showers and sunlight.⁵¹³ The ACT is more specific and adds for example that there should be a minimum of 2 hours of access to open air and exercise.⁵¹⁴

Social interaction

Additionally, minimum standards should outline children's entitlement to meaningful contact with others while in isolation, including their families, detention centre staff, and as far as appropriate in the circumstances, their peers. This may take the form of telephone, mail and visits from family and the community (see existing provisions in ACT, NT, and SA). Minimum requirements should also be set out to ensure meaningful communication with detention centre staff, who may be a child's only immediate connection to the outside world when held in isolated conditions (see existing provisions in NSW, NT, and SA).⁵¹⁵

Meaningful activity and exercise

The legislation should also include minimum entitlements to stimuli, activities, programs, and education appropriate to the age, needs and capabilities of each child placed into isolated conditions. This should not be simply a 'tick box' exercise, but should consider, for example, the learning challenges and strengths of a child, cultural needs and practices, and items that can support the development of the child and prepare them for reintegration into the community following release.

Medical and other support

Importantly, children must be guaranteed access to adequate supports while held in isolated conditions. For example, the Northern Territory provides that children should be permitted to see a medical practitioner, counsellor or psychologist, case worker, legal practitioner or another nominated person.

Concerns about children having adequate levels of access to legal, medical and other support services in detention extend beyond children who have been placed in isolation. For example, in a submission to the NT Royal Commission the North Australian Aboriginal Justice Agency (NAAJA) stated that there was 'considerable evidence that where young people did seek medical treatment through Youth Justice Officers, the Officers did not take medical concerns seriously or would not act upon their requests'.⁵¹⁶ In relation specifically to children in isolation it was stated that:⁵¹⁷

If a detainee wishes to make a medical appointment, they must fill out a form and place it in the 'medical box'. [NAAJA] has heard that detainees do not have access to the medical box while in isolation or at risk. In this situation, they must make the request to a Youth Justice Officer. Where they are at risk, young people generally have access to a professional only once a day, though even this wasn't always the case. In our view, this situation is an inadequate level of access of medical care.

Custodial authorities owe a duty of care to provide for the health and wellbeing of children in detention.⁵¹⁸ This extends to providing for the health and wellbeing of children who are placed in isolated conditions, including ensuring adequate access to legal, medical, disability and other support services at all times.

Notably, Queensland does not contain unique minimum standards for children but rather applies the same standards to adults and children alike.⁵¹⁹ Given the unique vulnerabilities and needs of children as they grow and develop, minimum standards should include additional and specific protections that are adequate and appropriate to ensuring the health and wellbeing of children subject to isolation practices.

6.6 Safeguards and oversight

Recommendation 17:

In all state and territory legislation, require that consistent detailed and accessible records are kept when children are isolated. At a minimum, records should include:

- the child's name and date of birth
- date and time the child was isolated
- location of isolation
- reasons for isolation, including other measures used to reduce risk of harm
- any use of force
- duration, including cumulative duration of consecutive periods
- medical, cultural, or other needs and services provided to meet those needs
- social interaction and other meaningful activity while the child is confined
- basic necessities such as food, water, and hygiene facilities provided
- authorising officer and any other person formally notified.

Recommendation 18:

All state and territory legislation should require that of supervision records are kept, which should occur at regular intervals.

Recommendation 19:

All state and territory legislation should require that records of any form of isolation are made available to the appropriate oversight bodies.

Recommendation 20:

All state and territory legislation should require the establishment of a dedicated register for records of isolation of children in detention. All records pertaining to all forms of isolation should be stored and appropriately maintained to facilitate effective oversight.

Recommendation 21:

In recognition of the risks to children's health and development in isolation, all state and territory legislation should require the involvement of and oversight from medical practitioners for all forms of isolation practices. For isolations involving children with physical or mental health issues, disability, or histories of trauma, medical involvement should be required 'as early as possible' – including in the making of isolation decisions, monitoring and reviews.

Recommendation 22:

All state and territory legislation should require prompt notice to relevant individuals and authorities, including parents/guardians/nominated persons, relevant commissioners, ombudsmen and inspectors, as well as relevant government authorities (e.g. the Department of Justice) in all cases of separation or isolation. This should include relevant Aboriginal and Torres Strait Islander authorities in the case of First Peoples children to ensure both oversight and guaranteed access to culturally appropriate support.

Recommendation 23:

All state and territory legislation should require internal review of decisions to isolate children in detention at regular intervals. These reviews should be daily at a minimum, to mitigate the risk of children being unduly held in isolation after the necessity for this has passed.

Adequate and effective safeguards are essential not only to mitigate the risks and serious effects of solitary confinement and similar practices on children in detention, but also to ensure objective and lawful decision-making and provide clear opportunities for access to justice. This is essential both to uphold the rights of children and to ensure oversight and accountability. However, the nature and scope of these safeguards are inconsistent across Australian jurisdictions, undermining their effectiveness and the protections they are intended to provide.

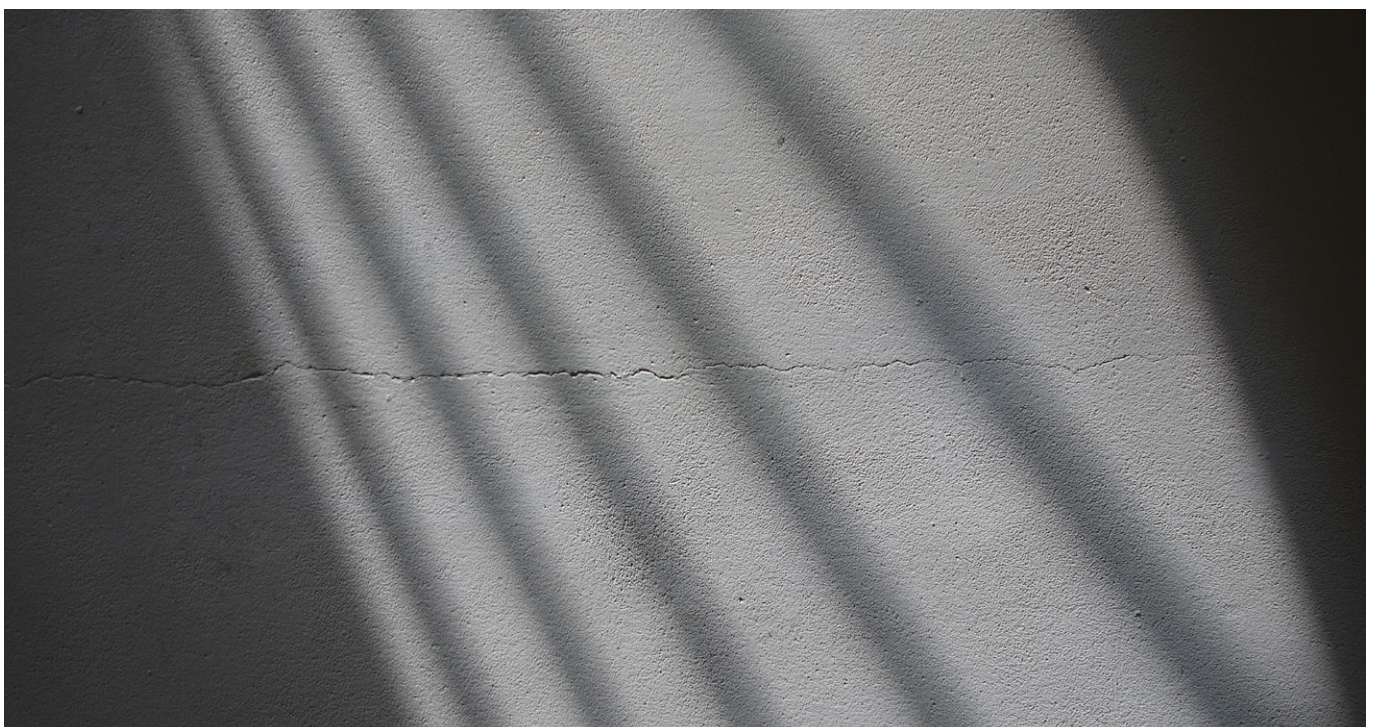


Table 8. Safeguards and oversight

Jurisdiction	Type	Safeguards
ACT	Segregation (all forms)	<p>(Record) Director-General must keep a register of segregations, including names, reason for detention, period in effect, people notified, use of force to compel compliance, confirmation after review or further direction, and other details required under the regulations. This must be available for inspection by a judge, magistrate, official visitor, custodial inspector, relevant commissioner, ombudsman, or other prescribed person.⁵²⁰</p> <p>(Internal Review) Director-General can review segregation direction at any time, and on request by child. They must review direction⁵²¹</p> <p>Before the transfer of a child elsewhere,</p> <p>Within 7 days of segregation being in force</p> <p>Within 7 days after initial review.</p> <p>Within 14 days of each subsequent period, it remains in force. (for health segregation) on request of treating doctor.</p> <p>After review, Director-General may decide to confirm or revoke direction or make a further direction.⁵²²</p> <p>(External Review) A child can apply to an external reviewer for review of segregation.⁵²³ External reviewer must give notice of decision to child, parent/guardian or nominated person, and the Director-General.⁵²⁴</p> <p>(Oversight) Director-General must prepare a notice (states segregation direction, reason, when direction takes effect, duration, explains that direction can be reviewed and revoked).⁵²⁵ Notice must be given ‘as soon as practicable’ to child detained, parent/guardian or nominated person, public advocate, for First Peoples children – the Aboriginal and Torres Strait Islander Children and Young People Commissioner.⁵²⁶</p>
	Segregation (safe room)	<p>(Privacy) Child must not be segregated in the presence/ sight of another child, UNLESS reasonable belief of ‘imminent and serious’ threat to the personal safety of the child or someone else and confining out of sight of another child would exacerbate that.⁵²⁷</p> <p>(Internal Review) Director-General must review segregation after 2 hours, and every 2 hours thereafter, or at own initiative, or request of the child.⁵²⁸ After review, Director-General must decide whether to confirm or revoke direction, make a further direction, or direct that child be transferred to a health facility.⁵²⁹</p>
	Segregation (safety and security)	No specific safeguards for this ground.
	Segregation (protective custody)	No specific safeguards for this ground.
	Segregation (health etc.)	(Medical/ Health) Director-General must have regard to advice by treating doctor in issuing, reviewing, confirming or revoking segregation. ⁵³⁰
	Segregation (interstate segregation)	No specific safeguards for this ground.

Jurisdiction	Type	Safeguards
NSW	Separation	Not specified.
	Segregation	<p>(Medical/ Health) Segregation plan must be subject to monitoring by psychologist and Department of Justice Assistant Manager, Client services.⁵³¹ Child must be visited daily by a Justice Health Officer.⁵³² If psychologist of Justice Health Officer advises risk of self-harm, child must be checked on by a justice officer at least once every 10 minutes, or more frequently if advised by the psychologist of justice health officer.⁵³³</p> <p>(Record) Centre Manager must record 'particulars' of segregation and give copies to the child and Secretary within 24 hours of segregation.⁵³⁴ Particulars are child's name and age, dates and times of segregation, description of place where child was segregated, means provided to the child to occupy themselves, the reason for segregation, details of approvals given by the Secretary, name of person who ordered the segregation.⁵³⁵</p> <p>(Oversight) For segregation more than 24 hours, Centre Manager must ensure 'prompt' notice to NSW Ombudsman.⁵³⁶</p>
	Exclusion and confinement.	Not specified.

Jurisdiction	Type	Safeguards
NT	Separation (all grounds)	<p>(Inform) Child must be given explanation of their rights during separation.⁵³⁷</p> <p>(Right to be heard) Child has right to be heard (although this can be limited or postponed for practical reasons or emergency situations).⁵³⁸</p> <p>(Medical/Health) Child must be examined by a medical practitioner within a reasonable time.⁵³⁹</p> <p>(Monitor) Child must be continuously monitored by closed-circuit television or physical observation by a member of staff.⁵⁴⁰</p> <p>(Record) Written observations by a member of staff, including the date, time and name of the member of staff, must be recorded at max. 15-minute intervals,⁵⁴¹</p> <p>(Record) Superintendent must keep a journal recording:⁵⁴²</p> <ul style="list-style-type: none"> • Date and time of separation. • Name of child, • Reason for separation, • Behavioural/ therapeutic measures attempted, • Name of person on-call, and time they were notified of separation. • Observations/ name of member of staff at observing child at max. 15-minute intervals. • Notes of all Superintendent's assessments on decision to separate • Date and time of exercise periods and ablutions • Name of any visitor to the detainee and the date and time of the visit. • Details of approval by Chief Executive Officer for separation over 12 hours. • Date and time child is released from separation cell. <p>(Internal Review) Superintendent must reassess the decision to separate the detainee every 2 hours.⁵⁴³</p> <p>(Oversight) Superintendent must report separation to Chief Executive Officer and Children's Commissioner 'as soon as reasonably practicable' after separation occurs.⁵⁴⁴</p>
	'At risk' children (Emergency Management Protocol)	<p>(Rights) Child detained in an observation room has the same rights as children who are 'separated'.⁵⁴⁵</p> <p>(Monitor) child must be continuously monitored by closed-circuit television or physical observation at maximum 15-minute intervals.⁵⁴⁶</p> <p>(Record) Member of staff must record written observations.⁵⁴⁷</p> <p>(Operation) The Emergency Management Protocol can address other issues the Chief Executive Officer of the Superintendent consider to be appropriate. The Protocol is implemented until an individual management plan is formulated.⁵⁴⁸</p>
Qld	Separation	<p>(Monitor) Child must be kept 'under observation in a way that complies with the direction issued by the Chief Executive'.⁵⁴⁹</p> <p>(Record) Chief Executive must make a record containing child's name, reason for separation, name of employee supervising during separation, date and length of time of separation.⁵⁵⁰</p>

Jurisdiction	Type	Safeguards
SA	Detention in a safe room	<p>(Medical/ Health/ Cultural) child must be examined as soon as possible by an appropriate health professional, where applicable a cultural advisor should be informed of the placement.⁵⁵¹</p> <p>(Monitor) Child must be ‘closely supervised’, observed at intervals of no longer than 5 minutes, observations must be recorded in writing.⁵⁵²</p> <p>(Record) Records must contain name and age of child, date/ time detention began and ended, reason for detention, name of employee who authorised, action taken before placement, management plan for child, any issues or concerns relating to medical or psychological condition.⁵⁵³ An account of incident leading to detention must be written, signed and dated by the child or written by a nominated person and signed by a child.⁵⁵⁴ If child refuses, refusal should be recorded.⁵⁵⁵</p> <p>(Oversight) Manager of the training centre must be notified of detention, reasons, ‘as soon as practicable’.⁵⁵⁶</p> <p>(Preparation for release) Action plan must prepared to manage resident upon release.⁵⁵⁷</p>
	Isolation	<p>(Rights) Must not contravene the child’s rights under the <i>Charter of Rights for Youths Detained in Training Centres</i>.⁵⁵⁸</p> <p>(Monitor) child must be closely supervised and observed at intervals not longer than 15 minutes.⁵⁵⁹</p> <p>(Record) observations must be recorded.⁵⁶⁰ A record should also be made detailing name and age of child, date/time isolation began and ended, reason, name of authorising employee, action taken (if any) before resident was isolated.⁵⁶¹</p> <p>(Oversight) where child is isolated for more than 30 minutes, Manager of the centre must be informed of isolation, and reasons, ‘as soon as reasonably practicable’.⁵⁶²</p>
	Segregation	<p>(Rights) Must not contravene the child’s rights under the <i>Charter of Rights for Youths Detained in Training Centres</i>.⁵⁶³</p> <p>(Record) A record should also be made detailing name and age of child, date/time segregation began and ended, reason, frequency and outcome of risk assessments conducted, name of authorising employee, action taken (if any) before resident was segregated, contact (if any) with other children in the centre.⁵⁶⁴</p> <p>(Oversight) Manager must be informed as soon as reasonably practicable, and Manager must ensure that parent/guardian/carer informed as soon as reasonably practicable, where applicable an Aboriginal and Torres Strait Islander Persons who can provide cultural support is informed, (if the child is under 12) the Training Centre Visitor is informed.⁵⁶⁵</p> <p>(Plan) an individualised action plan is prepared to support child’s return to normal routine.⁵⁶⁶</p>
Tasmania	Isolation	<p>(Monitor) Child must be ‘closely supervised and observed’ at intervals of no longer than 15 minutes.⁵⁶⁷</p> <p>(Record) Detention Centre Manager must ensure that the ‘particulars of every use of isolation’ are recorded in a register established for that purpose.⁵⁶⁸</p>

Jurisdiction	Type	Safeguards
Victoria	Isolation and seclusion	<p>(Monitor) Child must be closely supervised and observed at intervals or not longer than 15 minutes.⁵⁶⁹</p> <p>(Record) The officer in charge of the centre must ensure that particulars of isolation/seclusion are recorded in a register.⁵⁷⁰ Particulars are name of child isolated, time and date of commencement, reason for isolation, authorising officer's name and position, frequency of staff supervision and observation, time and date of release from isolation.⁵⁷¹</p> <p>(Oversight) (For isolation in the interests of security only) Officer must report isolation to the Officer in Charge of the centre, and then the Officer in Charge must report to the Secretary to the Department of Justice and Regulation – both as soon as possible.⁵⁷²</p>
WA	Confinement as punishment	<p>(Monitor) child must be subject to continuous monitoring for first 30 minutes. Then must be subject to 'regular monitoring' in accordance with a written management regime endorsed by the superintendent. Child is also subject to usual regimen of searches, checks, observation, notification, record-keeping and reporting as under other administrative rules and instructions.⁵⁷³</p> <p>(Record) the Superintendent must make and maintain a record of an order to confine a child.⁵⁷⁴</p>
	Confinement for good government, good order, or security.	<p>(Inform) the Superintendent must inform the child of the reason for confinement.⁵⁷⁵</p> <p>(Monitor) the child must be subject to regimen of searches, checks, observation, notification and other requirements as set out in rules made for this purpose and approved by the Chief Executive Officer, or as part of the 'usual regimen' of administrative rules and instructions.⁵⁷⁶</p> <p>(Record) the Superintendent must make and maintain a record of an order to confine a child.⁵⁷⁷</p>

Time limits being placed on the isolation of children is a key safeguard that is discussed separately above at [6.3](#).

Record keeping

All states and territories set requirements for record keeping in relation to practices that involve the isolation of children. Legislation varies as to the specific details to be provided. Requirements for record keeping in Tasmania and WA, for instance, are concerningly vague. The former only specifies that 'the particulars of every use of isolation be recorded', and the latter merely states that the superintendent must 'make and maintain a record' of an order to confine a child. The lack of detail provided may lead to significant gaps in the collection of information around isolation, which can in turn lead to improper oversight, and undermine the effectiveness of safeguards.

Many jurisdictions require recording of basic details such as the child's name, the dates and times of isolation, the reason for segregation (ACT, NSW, NT, Qld, SA, Victoria). Only two jurisdictions require a record of the child's age (NSW, SA), and only South Australia requires a record of medical or psychological concerns. As age, health, and other factors such as disability, cultural needs, and histories of trauma, can exacerbate a child's experience in isolated conditions, recording these factors should also be required.

Record keeping requirements regarding action prior to placing a child into isolation vary as well. In the NT, records must be kept of behavioural and therapeutic measures attempted prior to isolation. In South Australia, there must be records of 'action' taken before placement into a safe room, and 'action taken (if any)' for placement in isolation or segregation. Only in the ACT is there a

specific requirement for recording whether there was use of force to compel compliance.

Several jurisdictions require some information on assessments and authorisations of isolation practices. The NT for example requires 'notes of all the Superintendent's assessments' on the decision to separate a child, as well as details of approval by the Chief Executive where separation is for more than 12 hours. NSW requires the recording of details of approvals – but does not specify what this means.

In some cases, these requirements are specific to the type of isolation a child is placed in. In South Australia for instance, where a child is detained in a 'safe room', records must include an 'account of the incident leading to the decision' which should be sighted and signed by the child, or a nominated person. A child may also refuse to sign, and this should also be recorded. This is not currently required for isolation or segregation practices in South Australia. Additionally, where a child is placed into segregation within that jurisdiction, the 'frequency and outcome of risk assessments conducted' should be recorded, but this is not required for other forms of isolation.

Some jurisdictions also require that the name of the person who authorised the isolation or separation (Qld, SA) as well as their position (Victoria). In the Northern Territory, the name of the person on-call, and the time they were notified of a separation should also be recorded.

Few jurisdictions specify recording the details relating to the conditions of isolation. NSW for example requires the 'description of where a child was segregated', and the means that they were provided to 'occupy themselves', but only for segregation (not separation, exclusion or punishment).

Only the Northern Territory requires records to be kept of visitors and the date and time of exercise periods and ablutions.

Several jurisdictions require the recording of 'observations' of a child held in isolated conditions (NT, SA) or frequency of staff supervision and observation (Victoria). The Northern Territory further requires that observations be recorded at maximum 15-minute intervals.

Only one jurisdiction requires that these records be made available to oversight bodies, including judges, magistrates, inspectors, relevant commissioners, ombudsmen, and other prescribed persons (ACT). NSW requires that copies of records be provided to the detainee themselves

and Secretary of the Department of Justice within 24 hours of the segregation.⁵⁷⁸

Finally, multiple jurisdictions (but not all) require a dedicated register for records of practices that isolate children, and the storage and maintenance of records therein. This can ensure that records are appropriately stored and can support oversight bodies to identify issues of concern, such as repeated isolation, isolation for extended periods, or isolation in unacceptable conditions.

Medical oversight

Several jurisdictions provide for medical involvement and oversight of isolation practices. In the ACT for example, the person authorising the segregation must 'have regard' to advice by a treating doctor in issuing, reviewing, confirming, or revoking segregation.⁵⁷⁹

In NSW, medical authorities are more directly involved, and segregation plans must be monitored by a psychologist (as well as the Department of Justice) and children must be visited daily by a Justice Health Officer. Where either of these authorities advise risk of self-harm, children must be checked on by justice officers at regular intervals of no longer than 10 minutes, or more frequently if advised.⁵⁸⁰

In some jurisdictions, the timeframes within which medical involvement or oversight should be provided are not as specific. Children separated in the NT for instance must be examined by a medical practitioner within 'a reasonable time'. Conversely, in South Australia, a child detained in a safe room must be examined 'as soon as possible by an appropriate health professional'.

Notification

Only 2 jurisdictions expressly provide for cultural support or oversight. South Australia for example requires cultural advisors to be informed of the placement of a child in a safe room (where applicable). In the ACT, notice must be given 'as soon as possible' to the Aboriginal and Torres Strait Islander and Young People Commissioner where a child is placed in safe room, or in segregation.

Other jurisdictions provide for general oversight requirements. In the ACT, notice (including the segregation direction, reason, when direction takes effect, duration, and an explanation that it can be reviewed and revoked) must be provided to a parent/ guardian or nominated person, and the Public Advocate (as well as the Aboriginal

and Torres Strait Islander and Young People Commissioner).

Several jurisdictions require prompt notification of oversight bodies. In NSW, for example notice must be provided to the state's Ombudsman, and in the Northern Territory, the Superintendent must report separation to the Chief Executive Officer of the corrections and the Children's Commissioner 'as soon as reasonably practicable' after separation. Similarly, in South Australia, the manager of the training centre must be notified 'as soon as practicable - in all cases of isolation. In Victoria, for isolation in the interests of security only, officers must report the isolation to the Officer in Charge of the centre, who in turn must notify the Secretary and the Department of Justice and Regulations 'as soon as possible'.

Ensuring culturally appropriate care is essential for all First Peoples children when they are being detained, no matter the particular circumstances or type of detention facility. In recognition of the overrepresentation of First Peoples children in youth detention settings, and the acute harms they can experience in isolation, there should be specific requirements to ensure oversight by relevant First Peoples authorities and that all First Peoples children are guaranteed access to culturally appropriate support while held in isolated conditions.

Monitoring and review

Another key safeguard is regular monitoring of children in isolation through closed-circuit television or physical observation (e.g. NT, Qld, SA, Tasmania, WA) and the preparation of management plans to guide the treatment of children subject to isolation (NT) and prepare them for reintegration into the broader detention centre community (SA).

Further, it is essential that decisions to isolate children in detention be subject to internal review, which is not the case in all jurisdictions. In the Northern Territory for instance, a Superintendent must reassess the decision to separate a detainee every 2 hours. In some cases, these review intervals are much longer - such as the ACT, which provides for interval review within 7 days of segregation coming into force, and then again within 7 days after initial review, and 14 days for each subsequent period that the order remains in force. Given the significant harms that children can experience when held in isolated conditions for extended periods, these intervals are too long.

6.7 National consistency

Recommendation 24:

Australian governments should coordinate development of nationally consistent standards for child justice facilities.

Significant gaps in legislation, misalignment with international law and standards, and practices that fail to meet statutory requirements risk exposing children to harmful practices that can worsen trauma and mental health issues. A nationally consistent, legally binding framework would promote accountability, align with international human rights obligations, and provide clear guidance for staff, reducing ambiguity and improving rehabilitation outcomes. All young people, regardless of location, should experience safety, dignity, and development.

7. Appendix

7.1 Appendix A: Abbreviations

Term	Definition
CAT	Committee Against Torture
CRC	Convention on the Rights of the Child
CRC Committee	United Nations Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CRPD Committee	United Nations Committee on the Rights of Persons with Disabilities
ICCPR	International Covenant on Civil and Political Rights
NPM	National Preventative Mechanism
OHCHR	United Nations Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNCAT	United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNHRC	United Nations Human Rights Committee

Endnotes

- 1 Corruption and Crime Commission, *An Investigation into Allegations of Serious Misconduct Following the Death of Youth Detainee in Unit 18 of Casuarina Prison* (Report, 11 June 2024) 1 [1].
- 2 Rhiannon Shine and Andrea Mayes, 'Banksia Hill Teenager Becomes the Second to Die by Suicide in WA's Troubled Youth Detention System', *ABC News* (30 August 2024) <<https://www.abc.net.au/news/2024-08-30/banksia-hill-suicide-second-child-death-wa-youth-detention-/104290074>>.
- 3 Aaron Bunch, 'Cruel and Inhumane: Teen's Solitary Cell Before Death', *National Indigenous Times* (online, 29 July 2024) <<https://nit.com.au/29-07-2024/12776/top-official-hires-lawyer-following-inquest-revelations>>.
- 4 Aaron Bunch, 'Cruel and Inhumane: Teen's Solitary Cell Before Death', *National Indigenous Times* (online, 29 July 2024) <<https://nit.com.au/29-07-2024/12776/top-official-hires-lawyer-following-inquest-revelations>>..
- 5 As recently as 2023-2024, official inquiries and inspections found that children in detention were kept in isolation in almost every state and territory: See generally ACT Inspector of Correctional Services, *National Preventive Mechanism (NPM) Pilot Visit, Thematic Review of a Correctional Service: Isolation of Children and Young People at Bimberri Youth Justice Centre* (Report, November 2023); Queensland Ombudsman Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024); Training Centre Visitor, South Australia, *Annual Report 2023-2023* (Report, 2023); Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Who Was Looking After Me? Prioritising the Safety of Tasmanian Children – Volume 5: Children in Youth Detention* (Report, September 2023); Yoorrook Justice Commission, *Report into Victoria's Child Protection and Criminal Justice Systems* (Report, August 2023); Government of Western Australia, Office of the Inspector of Custodial Services, *2023 Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison* (Report, May 2023).
- 6 See e.g. Queensland Ombudsman Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 44, 52.
- 7 See with respect to the use of spit hoods, Commission for Children and Young People, *Annual Report* (Report, 2022-23) 42.
- 8 See e.g. *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, November 2017) vol. 2, 283-285.
- 9 See generally Senate, Legal and Constitutional Affairs References Committee, *Australia's youth justice and incarceration system* (Final Report, February 2025).
- 10 See the examples of past investigations, inquiries and inquests listed at Table 2.
- 11 See e.g. June Oscar, Anne Hollonds, Lorraine Finlay & Chin Tan, 'Governments Must Urgently Address Youth Justice Crisis' (Media Release, 15 November 2022).
- 12 United Nations Committee against Torture, *Concluding observations on the sixth periodic report of Australia* (UN Doc No.CAT/C/AUS/CO/6, 05 December 2022) 11 [37].
- 13 United Nations Committee against Torture, *Concluding observations on the sixth periodic report of Australia* (UN Doc No.CAT/C/AUS/CO/6, 05 December 2022) 12 [38(d)].
- 14 United Nations Committee against Torture, *Information received from Australia on follow-up to the concluding observations on its sixth periodic report* (CAT/C/AUS/FCO/6, 5 June 2024), [44] 6.
- 15 Australian Human Rights Commission, *'Help way earlier!' How Australia can transform child justice to improve safety and wellbeing* (2024).
- 16 *Convention on the Rights of the Child* art 1.
- 17 Sharon Shalev, 'A Sourcebook on Solitary Confinement' (2008) *SSRN Electronic Journal* 1, 17.
- 18 Sharon Shalev, 'A Sourcebook on Solitary Confinement' (2008) *SSRN Electronic Journal* 1, 18.
- 19 Sharon Shalev, 'A Sourcebook on Solitary Confinement' (2008) *SSRN Electronic Journal* 1, 13.
- 20 Sharon Shalev, 'A Sourcebook on Solitary Confinement' (2008) *SSRN Electronic Journal* 1, 20.
- 21 Human Rights Watch & American Civil Liberties Union, *Growing Up Locked Down: Youth Solitary Confinement in Jails and Prisons Across the United States* ('Growing Up Locked Down') (Report, 10 October 2012) ; 'Solitary Confinement of Children and Young people' (2018) 391(10131) *The Lancet* 1638.
- 22 Committee on the Rights of the Child, *General Comment No. 24: Children's Rights in the Child Justice System* (UN Doc No. CRC/C/GC/24, 18 September 2019) 6 [22]; *Growing Up Locked Down* See e.g. Deborah Paruch, 'The Solitary Confinement of Juveniles: It is a Cruel and Unusual Punishment' (2022) 57(3) *Idaho Law Review* 689, 699; Kathryn Monahan, Laurence Steinberg and Alex R. Piquero, 'Juvenile Justice Policy and Practice: A Developmental Perspective' (2015) 44 *Crime and Justice* 577, 582-587.
- 23 *Growing Up Locked Down*.
- 24 Kelly Richards, 'What makes juvenile offenders different from adult offenders' (Australian Institute of Criminology, Trends and Issues in crime and criminal justice, No. 409, February 2011) 1.
- 25 Isabelle Lina de Laia Almeida et al, 'Social Isolation and its Impact on Child Adolescent Development: A Systematic Review' (2022) 40 *Revista Paulista de Pediatria* 1, 7.

- 26 Joseph Calvin Gagnon et al., 'The Council for Exceptional Children, Division of Emotional and Behavioural Health's Position Statement on Solitary Confinement' (2022) 47(4) *Behavioral Disorders* 282, 283; See also Deborah Paruch, 'The Solitary Confinement of Juveniles: It is a Cruel and Unusual Punishment' (2022) 57(3) *Idaho Law Review* 689, 696.
- 27 Joseph Calvin Gagnon et al., 'The Council for Exceptional Children, Division of Emotional and Behavioural Health's Position Statement on Solitary Confinement' (2022) 47(4) *Behavioural Disorders* 282, 283.
- 28 Growing Up Locked Down.
- 29 Joseph Calvin Gagnon et al., 'The Council for Exceptional Children, Division of Emotional and Behavioural Health's Position Statement on Solitary Confinement' (2022) 47(4) *behavioural Disorders* 282, 283.
- 30 Tamar R. Birkhead, 'Children in Isolation: A Solitary Confinement of Youth' (2015) 50(1) *Wake Forest Law Review* 1, 10-11.
- 31 Sharon Shalev, 'A Sourcebook on Solitary Confinement' (2008) *SSRN Electronic Journal* 1,10.
- 32 Sharon Shalev, 'A Sourcebook on Solitary Confinement' (2008) *SSRN Electronic Journal* 1, 15-17; Sharon Shalev, 'Solitary Confinement as a Prison Health Issue' in Stefan Enggist et al., (eds), *WHO Guide to Prisons and Health* (World Health Organization, 2014) 27, 28; Craig Haney, 'The Psychological Effects of Solitary Confinement' (2018) 47 *Crime and Justice* 365, 371-372.
- 33 Growing Up Locked Down ; Andrew B. Clark, 'Juvenile Solitary Confinement as a Form of Child Abuse' (2017) 43 *Journal of the American Academy of Psychiatry and the Law* 350, 352.
- 34 Growing Up Locked Down.
- 35 Growing Up Locked Down.
- 36 Growing Up Locked Down.
- 37 Growing Up Locked Down. See also 'Solitary Confinement of Children and Young People' (2018) 391 *The Lancet* 1638, 1638; Joseph Calvin Gagnon et al., 'The Council for Exceptional Children, Division of Emotional and Behavioural Health's Position Statement on Solitary Confinement' (2022) 47(4) *Behavioral Disorders* 282, 284.
- 38 Andrew B. Clark, 'Juvenile Solitary Confinement as a Form of Child Abuse' (2017) 43 *Journal of the American Academy of Psychiatry and the Law* 350, 352; United States Department of Justice, et al., *Juvenile Suicide in Confinement: A National Survey* (Report, 2009) 18; Fatos Kaba et al, 'Solitary Confinement and Risk of Self-Harm Among Jail Inmates' (2014) 104(3) *American Journal of Public Health* 442, 444.
- 39 Sharon Shalev, 'A Sourcebook on Solitary Confinement' (2008) *SSRN Electronic Journal* 1,15.
- 40 Sharon Shalev, 'A Sourcebook on Solitary Confinement' (2008) *SSRN Electronic Journal* 1, 15; See also Sharon Shalev, 'Solitary Confinement as a Prison Health Issue' in Stefan Enggist et al., (eds), *WHO Guide to Prisons and Health* (World Health Organization, 2014) 27, 28.
- 41 *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 330.
- 42 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 8.
- 43 Training Centre Visitor, South Australia, *Annual Report 2022-2023* (Report, September 2023) 61.
- 44 Training Centre Visitor South Australia, *Great Responsibility: Report on the 2019 inspect of the Adelaide Youth Training Centre* (Report, Kurlana Tapa Youth Justice Centre, 2019) 83.
- 45 Julian D. Ford et al., 'Psychosocial Interventions for Traumatized Youth in the Juvenile Justice System: Research, Evidence base, and Clinical/Legal Challenges' (2016) 5(1) *Journal of Juvenile Justice* 31, 32.
- 46 *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 62; Commission for Children and Young People, *The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Justice System* (Inquiry Report, March 2017) 37.
- 47 Commission for Children and Young People, *The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Justice System* (Inquiry Report, March 2017) 37.
- 48 *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 62; Commission for Children and Young People, *The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Justice System* (Inquiry Report, March 2017) 37.
- 49 Commission for Children and Young People, *The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Justice System* (Inquiry Report, March 2017) 37.
- 50 Commission for Children and Young People, *The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Justice System* (Inquiry Report, March 2017) 37
- 51 *Royal Commission into Aboriginal Deaths in Custody*, (National Reports, 1991) vol. 3, 24.3.130, 24.3.137.
- 52 *Royal Commission into Aboriginal Deaths in Custody*, (National Reports, 1991) vol. 3, 25.2.6.
- 53 *Royal Commission into Aboriginal Deaths in Custody*, 'Regional Report of Inquiry In New South Wales, Victoria and Tasmania' (1991).
- 54 Commission for Children and Young People, *The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Justice System* (Inquiry Report, March 2017) 57.

- 55 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 81; See also Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Combined Second and Third Periodic Reports of Australia* (UN Doc No. CRPD/C/AUS/CO/2-3, 15 October 2019) 6 [25(d)]; Children and Young People with Disability Australia, *Submission to Disability Royal Commission Criminal Justice System Issues Paper* (July 2020) 3.
- 56 See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 39-43, 83; *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*, Criminal Justice System (Issues Paper, January 2020) 5-6.
- 57 See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 39-43, 169 & 284; Committee on the Rights of Persons with Disabilities, *General comment No. 5 (2017) on living independently and being included in the community* (UN Doc No. CRPD/C/GC/5, 27 October 2017) 15 [82]; See also Committee on the Rights of Persons with Disabilities, *Report of the Committee on the Rights of Persons with Disabilities* (UN Doc No. A/72/55, 11 May 2017) annex ('Guidelines on the right to liberty and security of persons with disabilities') 17 [9].
- 58 See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, Overview of responses to the Criminal Justice System Issues Paper* (Report, December 2020) 3-4; *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report) vol 8, 42; Guidelines on the right to liberty and security of persons with disabilities 17 [9].
- 59 Guidelines on the right to liberty and security of persons with disabilities 16-17 [6]-[7].
- 60 See e.g. *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 41.
- 61 See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8.
- 62 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report) vol 8, 83, 87-89, 107, 109.
- 63 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 69-70, 83 & 110-12.
- 64 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 7, 10, 64-6, 69-71 83 & 169-95.
- 65 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 64 & 89.
- 66 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 107.
- 67 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 13.
- 68 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A 13-15.
- 69 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 15.
- 70 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 81.
- 71 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 108.
- 72 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 107-109.
- 73 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 72; See also recommendation 8.4 in relation to ensuring children with disability receive appropriate responses following disability screening, including therapeutic and other interventions in *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 110.
- 74 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 110; See also recommendation 8.14 – National practice guidelines for screening in custody.
- 75 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 112.
- 76 Tamara Walsh et al., *Legal Perspectives on Solitary Confinement in Queensland* (Report, 2020) 10.
- 77 Tamar R. Birkhead, 'Children in Isolation: A Solitary Confinement of Youth' (2015) 50(1) *Wake Forest Law Review* 1, 12.
- 78 Tamara Walsh et al., *Legal Perspectives on Solitary Confinement in Queensland* (Report, 2020) 10; See also Sharon Shalev, 'Solitary Confinement as a Prison Health Issue' in Stefan Enggist et al., (eds), *WHO Guide to Prisons and Health* (World Health Organization, 2014) 27, 31.
- 79 Tamar R. Birkhead, 'Children in Isolation: A Solitary Confinement of Youth' (2015) 50(1) *Wake Forest Law Review* 1, 16.
- 80 *CRU by next friend CRU2 v Chief Executive Officer of the Department of Justice* [2023] WASC 257, [7] (Tottle J).

- 81 Australian Human Rights Commission, *'Help way earlier!' How Australia can transform child justice to improve safety and wellbeing* (Report, 2024), rec 19
- 82 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 105.
- 83 Yoorrook Justice Commission, *Report into Victoria's Child Protection and Criminal Justice System* (2023) Recommendation 44(a).
- 84 Australian and New Zealand Children's Commissioners and Guardians, 'ANZCCGA Joint Statement on Isolation in Youth Detention' (Media Release, 21 February 2024).
- 85 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 108.
- 86 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 108.
- 87 Australian Human Rights Commission, *'Help way earlier!' How Australia can transform child justice to improve safety and wellbeing* (Report, 2024) 90-91; *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 105.
- 88 Yoorrook Justice Commission, *Report into Victoria's Child Protection and Criminal Justice System* (Report, 2023) 324.
- 89 *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNT 171 (entered into force 23 March 1976).
- 90 Human Rights Committee, *General Comment No. 21: Article 10 (Human Treatment of Persons Deprived of their Liberty)* (10 April 1992) 1 [3].
- 91 Human Rights Committee, *General Comment No. 21: Article 10 (Human Treatment of Persons Deprived of their Liberty)* (10 April 1992) 1 [3].
- 92 Human Rights Committee, *General Comment No. 21: Article 10 (Human Treatment of Persons Deprived of their Liberty)* (10 April 1992) 1 [4].
- 93 Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee (Denmark)* (UN Doc No. CCPR/CO/70/DNK, 15 November 2000) 3 [12].
- 94 Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee (Denmark)* (UN Doc No. CCPR/CO/70/DNK, 15 November 2000) 3 [12].
- 95 Note that 'prolonged' refers to solitary confinement for more than 22 hours per day for 15 consecutive days (explored under the Mandela Rules below) See Human Rights Committee, *General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)* (10 March 1992) 1-2 [6].
- 96 *International Covenant on Civil and Political Rights* art 10(3).
- 97 See generally *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment*.
- 98 Sharon Shalev, 'Solitary Confinement and Supermax Prisons: A Human Rights and Ethical Analysis' (2011) 11(2) *Journal of Forensic Psychology* 153, 171. The Committee Against Torture for example has said that 'the definitional threshold between ill-treatment and torture is not clear. Experience demonstrated that the conditions that give rise to ill-treatment frequently facilitate torture. See Committee Against Torture, *General Comment No. 2: Implementation of Article 2 by States Parties* (UN Doc No. CAT/C/GC/2, 24 January 2008) 1-2 [3].
- 99 Committee Against Torture, *General Comment No. 2: Implementation of Article 2 by States Parties* (UN Doc No. CAT/C/GC/2, 24 January 2008) 1-2 [3].
- 100 Committee Against Torture, *General Comment No. 2: Implementation of Article 2 by States Parties* (UN Doc No. CAT/C/GC/2, 24 January 2008) 2 [4].
- 101 See generally *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.
- 102 *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* arts 3, 4 & 19.
- 103 *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, art 11.
- 104 Committee on the Prevention of Torture, *Report on the Visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay* (UN Doc No. CAT/OP/PRY/1, 7 June 2010) 34-35 [185].
- 105 The Special Rapporteur's mandate comprises three key activities - transmitting urgent appeals to States about individuals reported to be at risk of torture, and communications of past cases of alleged torture, undertaking fact finding visits in-country, and submitting reports on activities, the mandate, and methods of work the UN Human Rights Council and General

- Assembly. See *United Nations Office of the Human Rights Commissioner for Human Rights, Special Rapporteur on Torture* (Web Page) <<https://www.ohchr.org/en/special-procedures/sr-torture>>.
- 106 Samuel Fuller, 'Torture as a Management Practice: The Convention Against Torture and Non-disciplinary Solitary Confinement' (2018) 19(1) *Chicago Journal of International Law* 102, 108 & 113.
- 107 Juan E. Méndez, *Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (UN Doc No. A/66/268, 05 August 2011) 20 [72] & [74].
- 108 Juan E. Méndez, *Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (UN Doc No. A/66/268, 05 August 2011) 21 [77].
- 109 Juan E. Méndez, *Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (UN Doc No. A/66/268, 05 August 2011) 21 [77].
- 110 Juan E. Méndez, *Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (UN Doc No. A/66/268, 05 August 2011) 23 [86].
- 111 *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).
- 112 Committee on the Rights of the Child, *General Comment No. 24: Children's Rights in the Child Justice System* (UN Doc No. CRC/C/GC/24, 18 September 2019) 14 [89].
- 113 Committee on the Rights of the Child, *General Comment No. 24: Children's Rights in the Child Justice System* (UN Doc No. CRC/C/GC/24, 18 September 2019) 7 [28].
- 114 Committee on the Rights of the Child, *General Comment No. 24: Children's Rights in the Child Justice System* (UN Doc No. CRC/C/GC/24, 18 September 2019) 14 [85].
- 115 Committee on the Rights of the Child, *General Comment No. 24: Children's Rights in the Child Justice System* (UN Doc No. CRC/C/GC/24, 18 September 2019) 15 [92].
- 116 Committee on the Rights of the Child, *General Comment No. 24: Children's Rights in the Child Justice System* (UN Doc No. CRC/C/GC/24, 18 September 2019) 15 [92].
- 117 'Depositary: Convention on the Rights of the Child', *United Nations Treaty Collection* (10 October 2024) <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en#EndDec>.
- 118 Australian Government, *Australia's Combined Second and Third Reports under the Convention on the Rights of the Child* (Report, 2003) 74 [467]; Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Australia* (UN Doc No. CRC/C/AUS/CO/5-6, 30 September 2019) 2 [6]; Committee on the Rights of the Child, *Concluding Observations: Australia* (UN Doc CRC/C/15/Add.268, 20 October 2005) 2 [7].
- 119 Australian Human Rights Commission, Submission to the Committee on the Rights of the Child on *Information concerning Australia and the Convention on the Rights of the Child* (Submission, August 2011) 9, rec 7.
- 120 Committee on the Rights of the Child, *General Comment No. 24: Children's Rights in the Child Justice System*, (UN Doc No. CRC/C/GC/24, 18 September 2019) 15-16 [95(b)], [95(c)], [95(f)], [95(g)] & [95(h)].
- 121 See e.g. Committee on the Rights of the Child, *Concluding Observations: Singapore* (UN Doc No. CRC/C/15/Add.220, 27 October 2003) 8-9 [45]; Committee on the Rights of the Child, *Concluding Observations: El Salvador* (UN Doc No. CRC/C/15/Add.232, 30 June 2004) 8[36(a)].
- 122 *Convention on the Rights of Persons with Disabilities* art 13.
- 123 *Convention on the Rights of Persons with Disabilities* art 13(1).
- 124 *Convention on the Rights of Persons with Disabilities* art 13(2)
- 125 *Convention on the Rights of Persons with Disabilities* art 14.
- 126 *Convention on the Rights of Persons with Disabilities* art 15.
- 127 *Convention on the Rights of Persons with Disabilities* art 14(1)
- 128 *Convention on the Rights of Persons with Disabilities* art 15(1).
- 129 Guidelines on the right to liberty and security of persons with disabilities 16 [4].
- 130 Guidelines on the right to liberty and security of persons with disabilities 16-17 [6] & 18-19 [13].
- 131 Guidelines on the right to liberty and security of persons with disabilities 18 [12].
- 132 Guidelines on the right to liberty and security of persons with disabilities 19-20[17].
- 133 Guidelines on the right to liberty and security of persons with disabilities 20 [18].
- 134 Guidelines on the right to liberty and security of persons with disabilities 20 [18].
- 135 See *Convention on the Rights of Persons with Disabilities* art 19(b).
- 136 Committee on the Rights of Persons with Disabilities, *Concluding observations on the combined second and third periodic reports of Australia* (UN Doc No. CRPD/C/AUS/CO/2-3, 15 October 2019) 8 [29(b)].
- 137 Committee on the Rights of Persons with Disabilities, *Concluding observations on the combined second and third periodic reports of Australia* (UN Doc No. CRPD/C/AUS/CO/2-3, 15 October 2019) 8 [29(a)].

- 138 International Disability Alliance, *IDA's Compilation of CRPD Committee's Concluding Observations – Article 15 CRPD (Freedom of torture or cruel, inhuman or degrading treatment or punishment)* (April 2025) <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.internationaldisabilityalliance.org%2Fsites%2Fdefault%2Ffiles%2Farticle_15_crpd_april_2025.docx&wdOrigin=BROWSELINK>.
- 139 Committee on the Rights of Persons with Disabilities, *Concluding observations on the combined second and third periodic reports of Australia* (UN Doc No. CRPD/C/AUS/CO/2-3, 15 October 2019) 8 [28(a)].
- 140 Committee on the Rights of Persons with Disabilities, *Concluding observations on the combined second and third periodic reports of Australia* (UN Doc No. CRPD/C/AUS/CO/2-3, 15 October 2019) 8 [28(e)].
- 141 Committee on the Rights of Persons with Disabilities, *Concluding observations on the combined second and third periodic reports of Australia* (UN Doc No. CRPD/C/AUS/CO/2-3, 15 October 2019) 8 [30(a)].
- 142 Committee on the Rights of Persons with Disabilities, *Concluding observations on the combined second and third periodic reports of Australia* (UN Doc No. CRPD/C/AUS/CO/2-3, 15 October 2019) 8 [30(b)].
- 143 United Nations Office of Drugs and Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners: An Updated Blueprint for Prison Management in the 21st Century* (Brochure) <https://www.unodc.org/documents/justice-and-prison-reform/Brochure_on_the_UN_SMRs.pdf>.
- 144 Mandela Rules, rule 1.
- 145 Samuel Fuller, 'Torture as a Management Practice: The Convention Against Torture and Non-disciplinary Solitary Confinement' (2018) 19(1) *Chicago Journal of International Law* 102, 109.
- 146 Mandela Rules, rule 37.
- 147 *United Nations Standards Minimum Rules for the Administration of Juvenile Justice* (The Beijing Rules), GA Res 40/33 (29 November 1985).
- 148 *United Nations Standards Minimum Rules for the Administration of Juvenile Justice* ('Beijing Rules') (29 November 1985), rules 2 & 5.
- 149 Beijing Rules, rule 26.1.
- 150 *United Nations Guidelines for the Prevention of Juvenile Delinquency* (The Riyadh Guidelines), GA Res 45/112 (14 December 1990).
- 151 *United Nations Guidelines for the Prevention of Juvenile Delinquency* ('The Riyadh Guidelines') (14 December 1990).20 [54].
- 152 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rule 67.
- 153 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rule 12.
- 154 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rule 31.
- 155 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rule 32.
- 156 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rules 33-37.
- 157 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rule 37.
- 158 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rule 12.
- 159 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rule 47.
- 160 *United Nations Rules for the Protection of Juveniles Deprived of Their Liberty* (14 December 1990) rule 60.
- 161 United Nations Office of the High Commissioner for Human Rights, 'Press Briefing Notes on Gambia and Australia' (Media Release, 29 July 2016).
- 162 Committee Against Torture, *Concluding Observations on the Sixth Periodic Report of Australia* (UN Doc No. CAT/C/AUS/CO/6, 05 December 2022) 12 [38(d)].
- 163 Committee on the Rights of the Child, *Concluding Observations: Australia* (UN Doc No. CRC/C/15/Add.79, 21 October 1997) 4 [21]-[22]; Committee on the Rights of the Child, *Concluding Observations: Australia* (UN Doc No. CRC/C/15/Add.268, 20 October 2005) 14-15 [72]-[74]; Committee on the Rights of the Child, *Concluding Observations: Australia* (UN Doc No. CRC/C/AUS/CO/4, 28 August 2012) 20-21 [82]-[84]; Committee on the Rights of the Child, *Concluding Observations: Australia* (UN Doc No. CRC/C/AUS/CO/5-6, 01 November 2019) 11 [47]-[48].
- 164 Committee on the Rights of the Child, *Concluding Observations: Australia* (UN Doc No. CRC/C/AUS/CO/5-6, 01 November 2019) 14 [47].
- 165 Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Combined Second and Third Period Reports of Australia* (UN Doc CRPD/C/AUS/CO/2-3, 15 October 2019) paras 6 [25(d)] & 8 29(b).
- 166 See e.g. *Crimes Act 1914* (Cth) s 4N1. The Australian Capital Territory has raised the minimum age of criminal responsibility to 12, with a plan for this to rise to 14 in 2025. The Northern Territory raised the minimum age to 12 years old, but the territory's Country Liberal Party has indicated that it plans to lower the age back to 10 if elected in 2024. Further, Victoria committed to raising the age to 14, but has since backtracked on this, stating that the age will instead be raised to only 12.

- See Criminal Code Act 1983 (NT) s 38; *Criminal Code 2002* (ACT) s 25; *Justice (Age of Criminal Responsibility) Legislation Amendment Bill 2023* (ACT) s 92; *Youth Justice Bill 2024* (Vic) ss 10 & 769 .
- 167 Committee on the Rights of the Child, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System* (UN Doc No. CRC/GC/24, 18 September 2019) 14 [89].
- 168 Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2024* (Web Report, 13 December 2024) <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/about>>.
- 169 Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2024* (Web Report, 13 December 2024) <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/about>>.
- 170 Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2024* (Web Report, 13 December 2024) <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/about>>.
- 171 In 2023-24, 80 percent of children in detention were unsentenced. See Australian Institute of Health and Welfare, *Youth Justice in Australia 2023-24* (Web Report, 28 March 2025) <<<https://www.aihw.gov.au/getmedia/52c8911b-7258-4553-9e3c-fcdb021187f6/youth-justice-in-australia-2023-24.pdf?v=20250328042405&inline=true>>.
- 172 Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2024* (Web Report, 13 December 2024) <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/about>>.
- 173 Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2024* (Web Report, 13 December 2024) <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/about>>.
- 174 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 81; See also Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Combined Second and Third Periodic Reports of Australia* (UN Doc No. CRPD/C/AUS/CO/2-3, 15 October 2019) 6 [25(d)]; Children and Young People with Disability Australia, *Submission to Disability Royal Commission Criminal Justice System Issues Paper* (July 2020) 3.
- 175 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023), vol 8, 85-86.
- 176 Note that the listed disabilities were Fetal Alcohol Spectrum Disorder, Attention Deficit Hyperactivity Disorder, Autism Spectrum Disorder, Development/ Language Disorder, Cognitive/Intellectual disability, physical disability and sensory disability. See Queensland Government, Department of Children, Youth Justice and Multicultural Affairs, *Youth Justice Census Summary* (Census data, 2018-2022) < <https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/a6c6dbcf-b18f-413c-a2fb-9cd1b7bc4c84/yj_census_summary_custody_2018-2023.pdf?ETag=f68cb08f7fabb445Od08692be0a8e839> >.
- 177 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 86; Commission for Children and Young People, *The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Justice System* (Inquiry Report, March 2017) 35.
- 178 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 86; Government of South Australia, Training Centre Visitor, South Australia, *Great Responsibility: Report on the 2019 Pilot Inspection of the Adelaide Youth Training Centre (Kurla Tapa Youth Justice Centre)* (Report, 2019) 100.
- 179 New South Wales Government, *Young People in Custody Health Survey* (Key findings, 2015) 1.
- 180 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 85; Carol Bower et al, 'Fetal Alcohol Spectrum Disorder and Youth Justice: A Prevalence Study Among Young People Sentences to Detention in Western Australia' (2018) 8 *BMJ Open* 1, 1.
- 181 Note that Bimberi Youth Justice Centre does not capture data on children with a disability in the centre. However, the Australian Capital Territory Inspector of Correctional Services has acknowledged that 'many' of the children detained there have a history of trauma, or a disability. See ACT Inspector of Correctional Services, *Report of a Review of a Detention Place by the ACT Inspector of Correctional Services: Healthy Centre Review of Bimberi Youth Justice Centre 2020* (Report, 2021) 77; ACT Inspector of Correctional Services, *National Preventive Mechanism (NPM) Pilot Visit, Thematic Review of a Correctional Service: Isolation of Children and Young People at Bimberi Youth Justice Centre* (Report, November 2023) 13.
- 182 Commission of Inquiry into the Tasmanian Governments Responses to Child Sexual Abuse in Institutional Settings, *Who Was Looking after Me? Prioritising the Safety of Tasmanian Children: Volume 5 – Children in Youth Detention* (Book 1, 2023) 22.
- 183 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report) vol 1, 135.
- 184 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report) vol 8, 81.
- 185 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report) vol 8, 36-39; Fiona J Robards, Bronwyn Milne and Elizabeth Elliott, 'Addressing the challenges of FASD for adolescents in the justice system' (2024) 2(1) *Judicial Quarterly Review* 11; First Peoples Disability Network, *Australia's youth justice and incarceration system* (Submission, October 2024) 5.
- 186 First Peoples Disability Network, *Australia's youth justice and incarceration system* (Submission, October 2024) 5.
- 187 Garner Clancey, Sindy Wang and Brenda Lin, *Youth Justice in Australia: Themes from Recent Inquiries* (Australian Institute of Criminology, Trends and Issues in Criminology, No. 605, October 2020) 6.
- 188 Garner Clancey, Sindy Wang and Brenda Lin, *Youth Justice in Australia: Themes from Recent Inquiries* (Australian Institute of Criminology, Trends and Issues in Criminology, No. 605, October 2020) 6.

- 189 Catia Malvaso et al, *Adverse Childhood Experiences and Trauma Among Young People in the Youth Justice System* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice, No. 651, June 2022) 3 & 5.
- 190 Catia Malvaso et al, *Adverse Childhood Experiences and Trauma Among Young People in the Youth Justice System* (Australian Institute of Criminology, Trends and Issues in Crime and Criminal Justice, No. 651, June 2022) 7-8.
- 191 ACT Government, *Child Protection and Youth Justice* (Webpage) <<https://www.act.gov.au/community/child-protection-and-youth-justice>>; NSW Government, *About Youth Justice NSW Centres* (Webpage) <<https://www.nsw.gov.au/legal-and-justice/youth-justice/centres>>; Northern Territory Government Department of Corrections, *Youth Justice* (Webpage) <<https://corrections.nt.gov.au/youth-justice>>; Queensland Government Department of Youth Justice and Victim Support, *About Youth Detention in Queensland* (Webpage) <<https://www.youthjustice.qld.gov.au/parents-carers/youth-detention/about>>; Tasmanian Government Department for Education, Children and Young People, *About Youth Justice Services in Tasmania* (Webpage) <<https://www.decyp.tas.gov.au/safe-children/youth-justice-services/about-services-for-youth-justice-in-tasmania/>>; Victorian State Government Department of Justice and Community Safety, *Youth Justice Precincts* (Webpage) <<https://www.justice.vic.gov.au/youth-justice-precincts-0>>.
- 192 The Holtze Youth Detention Centre was opened in November 2024, with all children in detention in Darwin being transferred from the Don Dale Youth Detention Centre to the new facility. See Territory Community Safety, *Holtze Youth Detention Centre opens* (Webpage) <<https://territorycommunitysafety.nt.gov.au/latest-news/funding-to-help-aboriginal-led-domestic-violence-response>>.
- 193 The Alice Springs Intake and Transfer Facility (ASITF), which is located within the Alice Springs Correctional Precinct, temporarily holds young people from across Central Australia who have been taken into detention and are waiting transfer to the Holtze Youth Detention Centre. See <<https://nt.gov.au/law/youth-justice/alice-springs-intake-transfer-facility>>
- 213 Casuarina is a maximum-security adult prison.
- 194 Leanne McLean, 'Adult Prison is No Place for Children' (Media Release, Commissioner for Children and Young People Tasmania, 08 February 2024) .
- 195 Leanne McLean, 'Adult Prison is No Place for Children' (Media Release, Commissioner for Children and Young People Tasmania, 08 February 2024).
- 196 Office of the Guardian for Children and Young People, 'NPM Joint Statement: Queensland Law Change and Detention of Children in Watch Houses and Adult Prisons' (Media Release, 6 September 2023) .
- 197 Queensland Family and Child Commission, *Who's responsible: Understanding why young people are being held longer in Queensland watch houses* (Report, November 2023) 4; Children's Court of Queensland, *Annual Report 2021-22* (2022).
- 198 Children's Court of Queensland, *Annual Report 2023-24 (2024)* 2 [6].
- 199 Children's Court of Queensland, *Annual Report 2023-24 (2024)* 3 [7].
- 200 Queensland Family and Child Commission, *Who's responsible: Understanding why young people are being held longer in Queensland watch houses* (Report, November 2023) 27-28.
- 201 Queensland Police Service, *Watch-house Review* (Report, July 2025) 7-9.
- 202 Queensland Police Service, *Watch-house Review* (Report, July 2025) 9.
- 203 Office of the Custodial Inspector Tasmania, *Children in Tasmania's prisons* (Report, 2025) 58.
- 204 Office of the Custodial Inspector Tasmania, *Children in Tasmania's prisons* (Report, 2025) 5.
- 205 Office of the Custodial Inspector Tasmania, *Children in Tasmania's prisons* (Report, 2025), 35.
- 206 Office of the Custodial Inspector Tasmania, *Children in Tasmania's prisons* (Report, 2025), 37.
- 207 Inspector of Detention Services, Office of the Queensland Ombudsman, *Cairns and Murgon watch-houses inspection report: Focus on detention of children* (Report, September 2024) 50.
- 208 Inspector of Detention Services, Office of the Queensland Ombudsman, *Cairns and Murgon watch-houses inspection report: Focus on detention of children* (Report, September 2024) 76.
- 209 Queensland Police Service, *Watch-house Review* (Report, July 2025), 28-29.
- 210 Australian Human Rights Commission, *Australian Human Rights Commission condemns children's isolation cells* (Media Release, 19 July 2024).
- 211 Australian Human Rights Commission, *Australian Human Rights Commission condemns children's isolation cells* (Media Release, 19 July 2024).
- 212 Australian Human Rights Commission, *Australian Human Rights Commission condemns children's isolation cells* (Media Release, 19 July 2024).
- 214 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 82.
- 215 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 102.
- 216 Inspector of Custodial Services NSW, *Inspection of Six Youth Justice Centres in NSW* (Report, December 2020) 37-38.
- 217 Victorian Ombudsman, *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people* (Report, September 2019) 243.

- 218 Victorian Ombudsman, *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people* (Report, September 2019) 8.
- 219 Commission for Children and Young People, *The Same Four Walls: inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Youth Justice System* (Report, March 2017) 6.
- 220 Commission for Children and Young People, *Annual Report 2022-23* (Report, 2023) 37.
- 221 Commission for Children and Young People, *Annual Report 2022-23* (Report, 2023) 35.
- 222 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 83.
- 223 See e.g. Office of the Children's Commissioner of the Northern Territory, *Own Initiative Investigation Report: Services Provided by the Northern Territory Department of Correctional Services to Don Dale Youth Detention Centre and Alice Springs Youth Detention Centre* (Final Investigation Report, August 2016) 11.
- 224 Office of the Inspector of Custodial Services, *2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre* (Report, March 2022), 2.
- 225 Office of the Inspector of Custodial Services, *2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre* (Report, March 2022), 2.
- 226 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 12; *Commissioner of Police v David Taylor* [2023] QChCM 2.
- 227 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 12; *R v JG* (2023) QChC 7.
- 228 Note that the child served a total of 139 days, but records of separation were only provided for 87 of these days. See *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 102; Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 12; *R v TA* [2023] QChC 2, 5-6.
- 229 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report) vol 8, 102.
- 230 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 21.
- 231 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 52.
- 232 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 6.
- 233 Inspector of Custodial Services NSW, *Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres* (Report, November 2018) 112.
- 234 *R v Nathan (a pseudonym)* [2023] QChC 4, [10].
- 235 See e.g. *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 1, 16; *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 307; Penny Armytage & James Ogloff, *Youth Justice Review and Strategy* (Part 2, Report, July 2017) 291.
- 236 *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment* art 10.
- 237 Training Centre Visitor, *Annual Report 2022-2023* (Report, September 2023) 93.
- 238 See e.g. Office of the Children's Commissioner, *Own Initiative Investigation Report: Services Provided by the Northern Territory Department of Correctional Services to Don Dale Youth Detention Centre and Alice Springs Youth Detention Centre* (Final Investigation Report, August 2016) 12.
- 239 Penny Armytage & James Ogloff, *Youth Justice Review and Strategy* (Part 2, Report, July 2017) 289.
- 240 Penny Armytage & James Ogloff, *Youth Justice Review and Strategy* (Part 2, Report, July 2017) 289.
- 241 Penny Armytage & James Ogloff, *Youth Justice Review and Strategy* (Part 2, Report, July 2017) 289.
- 242 ACT Inspector of Correctional Services, *Report of a Review of a Detention Place by the ACT Inspector of Correctional Services: Healthy Centre Review of Bimberi Youth Justice Centre 2020* (Report, 2021) 41.
- 243 ACT Inspector of Correctional Services, *Report of a Review of a Detention Place by the ACT Inspector of Correctional Services: Healthy Centre Review of Bimberi Youth Justice Centre 2020* (Report, 2021) 43-43.
- 244 *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, Who was looking after me? Prioritising the safety of Tasmanian children* (Report, August 2023) vol 5, book 2, 1-2.
- 245 *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, Who was looking after me? Prioritising the safety of Tasmanian children* (Report, August 2023) vol 5, book 2, 12.
- 246 *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, Who was looking after me? Prioritising the safety of Tasmanian children* (Report, August 2023) vol 5, book 2, 64.

- 247 Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Who was looking after me? Prioritising the safety of Tasmanian children* (Report, August 2023) vol 5, book 2, 12.
- 248 Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Who was looking after me? Prioritising the safety of Tasmanian children* (Report, August 2023) vol 5, book 2, 12.
- 249 Training Centre Visitor, *Annual Report 2022-2023* (Report, September 2023) 63.
- 250 Training Centre Visitor, *Annual Report 2022-2023* (Report, September 2023) 63.
- 251 Training Centre Visitor, *Annual Report 2022-2023* (Report, September 2023) 63.
- 252 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 107.
- 253 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, rec 8.3.
- 254 Inspector of Custodial Services NSW, *Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres* (Report, November 2018) 110.
- 255 Inspector of Custodial Services NSW, *Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres* (Report, November 2018) 110.
- 256 Training Centre Visitor, *Great Responsibility: Report on the 2019 inspect of the Adelaide Youth Training Centre* (Kurlana Tapa Youth Justice Centre) 83.
- 257 Inspector of Custodial Services NSW, *Inspection of Six Youth Justice Centres in NSW* (Report, December 2020) 14.
- 258 Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Who was looking after me? Prioritising the safety of Tasmanian children* (Report, August 2023), vol 5, book 1, 23 & 94.
- 259 Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Who was looking after me? Prioritising the safety of Tasmanian children* (Report, August 2023), vol 5, book 1, 2.
- 260 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 305.
- 261 Penny Armytage & James Ogloff, *Youth Justice Review and Strategy* (Part 2, Report, July 2017) 291.
- 262 Yoorrook Justice Commission, *Report into Victoria's Child Protection and Criminal Justice System* (2023) rec 44(b).
- 263 Zizi Averill, 'NT Judge hears children kept in cells 23 hours a day in Holtze Youth Detention Centre', *The Herald Sun* (Online, 14 May 2025) <<https://www.heraldsun.com.au/news/nt-judge-hears-children-kept-in-cells-23-hours-a-day-in-holtze-youth-detention-centre/news-story/e6627668d983039d78cf11c1ce520446?btr=0a441c6e5b5cd4e329f538a98b29a719>>.
- 264 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 10 & 16.
- 265 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 16.
- 266 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 17.
- 267 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 21.
- 268 Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings, *Who was looking after me? Prioritising the safety of Tasmanian children* (Report, August 2023), vol 5, book 2, 3.
- 269 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 96.
- 270 Office of the Inspector of Custodial Services, *2023 Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part One)* (Report, May 2023) 14.
- 271 Office of the Inspector of Custodial Services, *2023 Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part One)* (Report, May 2023) 15.
- 272 [2022] WACC 3.
- 273 *The State of Western Australia v IJ* [2022] WACC [97].
- 274 Aja Styles, 'If you want a monster this is how you do it': WA judge slams prison he says 'treated a child like an animal', *WA Today* (Online, 10 February 2022) <<https://www.watoday.com.au/national/western-australia/wa-s-juvenile-prison-a-lesson-in-how-to-create-a-monster-perth-children-s-court-judge-20220210-p59vgo.html>>.
- 275 Aja Styles, 'If you want a monster this is how you do it': WA judge slams prison he says 'treated a child like an animal', *WA Today* (Online, 10 February 2022) <<https://www.watoday.com.au/national/western-australia/wa-s-juvenile-prison-a-lesson-in-how-to-create-a-monster-perth-children-s-court-judge-20220210-p59vgo.html>>.
- 276 Aja Styles, 'If you want a monster this is how you do it': WA judge slams prison he says 'treated a child like an animal', *WA Today* (Online, 10 February 2022) <<https://www.watoday.com.au/national/western-australia/wa-s-juvenile-prison-a-lesson-in-how-to-create-a-monster-perth-children-s-court-judge-20220210-p59vgo.html>>.
- 277 *VYZ by next friend XYZ v Chief Executive Officer of the Department of Justice* [2022] WASC 274.

- 278 *VYZ by next friend XYZ v Chief Executive Officer of the Department of Justice* [2022] WASC 274 [18].
- 279 *VYZ by next friend XYZ v Chief Executive Officer of the Department of Justice* [2022] WASC 274 [89].
- 280 *VYZ by next friend XYZ v Chief Executive Officer of the Department of Justice* [2022] WASC 274 [190].
- 281 See generally Office of the Inspector of Custodial Services, *2023 Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part One)* (Report, May 2023); Office of the Inspector of Custodial Services, *Australia's youth justice and incarceration system: Submission* (Report, October 2024); Office of the Inspector of Custodial Services, *Review of youth custody: Follow-up to 2023 inspection (Part Two)* (Report, November 2024).
- 282 Keane Bourke, 'Coroner in Cleveland Dodd inquest indicates he may call for urgent closure of Unit 18', *ABC News* (Online, 11 December 2024) <<https://www.abc.net.au/news/2024-12-11/cleveland-dodd-inquest-coroner-may-call-for-closure-of-unit-18/104712784>>.
- 283 Sarah Crawford and Rebecca Le May, 'Cleveland Dodd: Teen's mum walks out of court in tears after 'horrific neglect recapped' during inquest', *The West Australian* (Online, 30 June 2025). <<https://thewest.com.au/news/court-justice/cleveland-dodd-teens-mum-walks-out-of-court-in-tears-after-horrific-neglect-recapped-during-inquest-c-19195992>>.
- 284 Keane Bourke, 'WA government apologises to family of Cleveland Dodd at inquest into his death', *ABC News* (Online, 30 June 2025) <<https://www.abc.net.au/news/2025-06-30/cleveland-dodd-inquest-wa-government-apology/105478110>>.
- 285 Keane Bourke, 'Coroner in Cleveland Dodd inquest indicates he may call for urgent closure of Unit 18', *ABC News* (Online, 11 December 2024) <<https://www.abc.net.au/news/2024-12-11/cleveland-dodd-inquest-coroner-may-call-for-closure-of-unit-18/104712784>>.
- 286 Sarah Crawford and Rebecca Le May, 'Cleveland Dodd: Teen's mum walks out of court in tears after 'horrific neglect recapped' during inquest', *The West Australian* (Online, 30 June 2025) <<https://thewest.com.au/news/court-justice/cleveland-dodd-teens-mum-walks-out-of-court-in-tears-after-horrific-neglect-recapped-during-inquest-c-19195992>>.
- 287 Daryna Zadvirna, 'Former WA justice chief Adam Tomison breaks down on the stand at Cleveland Dodd inquest', *ABC News* (Online, 25 July 2024) <<https://www.abc.net.au/news/2024-07-25/ex-justice-chief-breaks-down-on-stand-at-cleveland-dodd-inquest/104141826>>.
- 288 Australian Children's Commissioners and Guardians, *Statement on Youth Conditions and Treatment in Youth Detention* (Statement, November 2017) 22.
- 289 Yoorrook Justice Commission, *Report into Victoria's Child Protection and Criminal Justice System* (Report, 2023) 324.
- 290 *Children and Young People (Safety and Security) Policy and Procedures 2018 (No 1)* (ACT).
- 291 Inspector of Custodial Services NSW, *Inspection of Six Youth Justice Centres* (Report, December 2020) 99.
- 292 Inspector of Custodial Services NSW, *Inspection of Six Youth Justice Centres* (Report, December 2020) 99.
- 293 Inspector of Custodial Services NSW, *Inspection of Six Youth Justice Centres* (Report, December 2020) 99.
- 294 ACT Inspector of Correctional Services, *Report of a Review of a Detention Place by the ACT Inspector of Correctional Services: Healthy Centre Review of Bimberi Youth Justice Centre 2020* (Report, 2021) 44.
- 295 ACT Inspector of Correctional Services, *Report of a Review of a Detention Place by the ACT Inspector of Correctional Services: Healthy Centre Review of Bimberi Youth Justice Centre 2020* (Report, 2021) 44.
- 296 ACT Inspector of Correctional Services, *Report of a Review of a Detention Place by the ACT Inspector of Correctional Services: Healthy Centre Review of Bimberi Youth Justice Centre 2020* (Report, 2021) 44.
- 297 Australian Institute of Health and Welfare, *Youth Detention Population in Australia 2024* (Web Report, 13 December 2024) <<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/about>>.
- 298 *Beijing Rules* rule 26.4.
- 299 Sibella Matthews, 'Girls in juvenile detention: Deprioritised and re-traumatised' (2018) 147 *Precedent* 14.
- 300 See e.g. *Children and Young People Act 2008* (NSW) s 166(2)(b).
- 301 ACT Inspector of Correctional Services, *National Preventive Mechanism (NPM) Pilot Visit, Thematic Review of a Correctional Service: Isolation of Children and Young People at Bimberi Youth Justice Centre* (Report, November 2023) 14.
- 302 Training Centre Visitor *Annual Report 2022-2023* (Report, September 2023) 99.
- 303 Training Centre Visitor *Annual Report 2022-2023* (Report, September 2023) 99.
- 304 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 44.
- 305 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 45.
- 306 Office of the Inspector of Custodial Services, *2023 Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part One)* (Report, May 2023) ix.
- 307 Joanna Menagh, 'Judge Issue WA Government Contempt of Court Warning Over Children Detained in Adult Prison', *ABC News* (Online, 21 October 2022) <<https://www.abc.net.au/news/2022-10-21/judge-warns-wa-government-over-housing-children-at-casuarina/101564162>>.

- 308 Joanna Menagh, 'Judge Issue WA Government Contempt of Court Warning Over Children Detained in Adult Prison', *ABC News* (Online, 21 October 2022) <<https://www.abc.net.au/news/2022-10-21/judge-warns-wa-government-over-housing-children-at-casuarina/101564162>>.
- 309 See e.g. Commissioner for Children and Young People Western Australia, *Hear Me Out: Inquiry into Implementation Progress for Banksia Hill's Model of Care Instruction* (Report, 2024); *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8; Office of the Inspector of Custodial Services, *Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part One)* (Report 148, May 2023); Office of the Inspector of Custodial Services, *2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre* (Report 141, March 2022); Office of the Inspector of Custodial Services, *2017 Inspection of Banksia Hill Detention Centre* (Report 116, February 2018).
- 310 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 312.
- 311 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 312.
- 312 *Royal Commission into the Protection and Detention of Children in the Northern Territory (Final Report, 2017)* vol 2A, 314.
- 313 Ombudsman SA, *Investigation into the treatment of young people in the Adelaide Youth Training Centre* (November 2019) 35 [100]-[101].
- 314 Commission for Children and Young People, *The Same Four Walls: inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Youth Justice System* (Report, March 2017) 57-58.
- 315 Corruption and Crime Commission, *An investigation into allegations of serious misconduct following the death of a young detainee in Unit 18 of Casuarina Prison* (Report, 11 June 2024) 19 [78] & [80]; Office of the Inspector of Custodial Services, *Inspection of Banksia Hill Detention Centre and Unit 18 at Casuarina Prison (Part One)* (Report 148) (May 2023).
- 316 Office of the Inspector of Custodial Services, *2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre* (Report, March 2022) 6.
- 317 Office of the Inspector of Custodial Services, *2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre* (Report, March 2022) 6.
- 318 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 8, 82.
- 319 Office of the Inspector of Custodial Services, *2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre* (Report, March 2022) 7.
- 320 *Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 1, 19.
- 321 Night mode was described as 'the most serious form of staff shortage separation', being when all of the children in an accommodation unit are separated in their individual rooms during the day from 7:30am to 7:30pm. The name is given due to it being similar to the type of separation that occurs during the overnight lockdown that occurs between 7:30pm and 7:30am. See Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 30.
- 322 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 30
- 323 Office of the Children's Commissioner, *Own Initiative Investigation Report: Services Provided by the Northern Territory Department of Correctional Services to Don Dale Youth Detention Centre and Alice Springs Youth Detention Centre* (Final Investigation Report, August 2016) 33.
- 324 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (Final Report, 2017) vol 2A, 297.
- 325 Inspector of Custodial Services NSW, *Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres* (Report, November 2018) 124.
- 326 Training Centre Visitor, *Annual Report 2022-2023* (Report, September 2023) 68.
- 327 Western Australia Office of the Inspector of Custodial Services, *2021 Inspection of the Intensive Support Unit at Banksia Hill Detention Centre* (Report, March 2022) 6; See also *Inspector of Custodial Services NSW, Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres* (Report, November 2018) 125.
- 328 ACT Human Rights Commission, *Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre* (Report, March 2019) 52-53.
- 329 Commission for Children and Young People, *The Same Four Walls: Inquiry into the Use of Isolation, Separation and Lockdowns in the Victorian Justice System* (Report, March 2017) 83.
- 330 See e.g. Inspector of Custodial Services NSW, *Use of Force, Separation, Segregation and Confinement in NSW Juvenile Justice Centres* (Report, November 2018) 124-130.
- 331 ACT Human Rights Commission, *Commission Initiated Review of Allegations Regarding Bimberi Youth Justice Centre* (Report, March 2019) 52-53.
- 332 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 38.
- 333 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 39.

- 334 Penny Armytage & James Ogloff, *Youth Justice Review and Strategy* (Part 2, Report, July 2017).
- 335 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024), 15.
- 336 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 30.
- 337 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 36.
- 338 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 37-38.
- 339 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 35-37.
- 340 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 32.
- 341 Note at the time of the report however, most of these vacancies had been filled. See Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 32.
- 342 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 32.
- 343 Queensland Inspector of Detention Services, *Cleveland Youth Detention Centre Inspection Report: Focus on Separation Due to Staff Shortages* (Report, August 2024) 40.
- 344 Training Centre Visitor, *Annual Report 2022-2023* (Report, September 2023) 32.
- 345 Office of the Custodial Inspector Tasmania, *Annual Report 2023-24* (Report, 2024), 12.
- 346 Australian National Preventive Mechanism, *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) 10.
- 347 *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings*, vol 5, book 1, 23.
- 348 Garney Clancey, Sindy Wang and Brena Lin, *Youth justice in Australia: Themes from recent inquiries* (Trends & issues in crime and criminal justice, No. 605, Australian Institute of Criminology, October 2020), 1.
- 349 *Youth Justice Act 2024* (Vic), s 479.
- 350 The remaining provisions will come into operation on 30 September 2026 if not proclaimed earlier, see *Youth Justice Act 2024* (Vic), s 2(3).
- 351 *Human Rights Act 2004* (ACT); *Charter of Human Rights and Responsibilities Act 2006* (Vic); *Human Rights Act 2019* (Qld).
- 352 *Owen-D'Arcy v Chief Executive, Queensland Corrective Services* [2021] QSC 273.
- 353 See e.g. the NSW Youth Justice Inspection Standards; NSW Juvenile Justice Separation Procedure; Northern Territory Department of Corrections At-Risk Procedures Manual; Charter of Rights for Youths Detained in Training Centres in South Australia; Inspection Standards for Youth Custodial Centres in Tasmania; AYDC Use of Isolation Procedures (Tasmania).
- 354 The Training Centre Visitor, *Special Report into the use of Isolation at the Adelaide Youth Training Centre (Report, 12 August 2025)* 16.
- 355 *Children and Young People Act 2008* (ACT) s 204.
- 356 *Children (Detention Centres) Act 1987* (NSW) s 16.
- 357 *Children (Detention Centres) Act 1987* (NSW) s 19.
- 358 *Children (Detention Centres) Act 1987* (NSW) s 21(d).
- 359 *Youth Justice Act 2005* (NT) s 155A.
- 360 *Youth Justice Regulation* (Qld) reg 21(1).
- 361 Not defined in the *Youth Justice Administration Act 2016* (SA); Defined in the *Youth Justice Administration Regulations 2016* (SA) reg 6(1).
- 362 Not defined in the *Youth Justice Administration Act 2016* (SA); Defined in the *Youth Justice Administration Regulations 2016* (SA) s 7(1).
- 363 *Youth Justice Act 1997* (TAS) s 133(1).
- 364 *Children, Youth and Families Act 2005* (Vic) s 488.
- 365 *Children, Youth and Families Act 2005* (Vic) s 72A.
- 366 *Young Offenders Regulations 1995* (WA) reg 74.

- 367 Not defined in the *Youth Justice Administration Act 2016* (SA); Defined in the *Youth Justice Administration Regulations 2016* (SA) reg 6(1); Not defined in the *Youth Justice Administration Act 2016* (SA); Defined in the *Youth Justice Administration Regulations 2016* (SA) reg 7(1).
- 368 In South Australia for example, the language of 'safe rooms' is used in the legislation, but not in the accompanying regulations. Further the terms 'isolation and segregation' are *not defined in the legislation but are further elaborated on in the regulations*. See *Youth Justice Administration Act 2016* (SA) ss 4(1), 29(b); *Youth Justice Administration Regulations 2016* (SA) regs 6-7.
- 369 Victorian Ombudsman, *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people* (Report, September 2019) 6.
- 370 Australian National Preventive Mechanism, *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) 10.
- 371 Australian Children's Commissioners and Guardians, *Human Rights Standards in Youth Detention Facilities in Australia: The Use of Restraint, Disciplinary Regimes and Other Specified Practices* (Report, April 2016) 61.
- 372 James Foulds, Sharon Shalev et al., 'Public Reporting on Solitary Confinement in Australian and New Zealand Prisons and Youth Detention Facilities' (2025) 27(1) *Health and Human Rights* 19, 20.
- 373 *Children and Young People Act* (ACT) s 218(a).
- 374 *Children and Young People Act* (ACT) s 218(b).
- 375 *Children and Young People Act* (ACT) s 217(1)(c).
- 376 *Children and Young People Act* (ACT) s 211(1)(a).
- 377 *Children and Young People Act* (ACT) s 211(1)(b).
- 378 *Children and Young People Act* (ACT) s 209(4).
- 379 *Children and Young People Act* (ACT) ss 211(2)(a)-(b).
- 380 *Children and Young People Act* (ACT) s 212(3).
- 381 *Children and Young People Act* (ACT) s 213(3).
- 382 *Children and Young People Act* (ACT) s 214(2).
- 383 *Children and Young People Act* (ACT) s 215(2)(b).
- 384 *Children (Detention Centres Act 1987* (NSW) s 19(b).
- 385 *Children (Detention Centres Act 1987* (NSW) s 21(d).
- 386 *Youth Justice Act 2005* (NT) s 155A(3A)(5)-(6).
- 387 *Youth Justice Regulations 2006* (NT) reg 72(1)(c).
- 388 *Youth Justice Regulations 2006* (NT) reg 44.
- 389 *Youth Justice Administration Regulation 2016* (QLD) reg 21(2).
- 390 *Youth Justice Administration Act 2016* (SA) s 28(4).
- 391 *Youth Justice Administration Regulations 2016* (SA) reg 6(4), 6(7).
- 392 *Youth Justice Administration Regulations 2016* (SA) reg 7(4)(a)-(c).
- 393 *Youth Justice Act 1997* (Tas) s 133(3).
- 394 *Children, Youth and Families Act 2005* (Vic) ss 72P(3), 488(3).
- 395 *Young Offenders Act 1994* (WA) s 173(2)(e)(i)-(ii).
- 396 *Young Offenders Act 1994* (WA) s 196(2)(e). *Young Offenders Regulations 1995* (WA) reg 79(5).
- 397 *Youth Justice Administration Regulations 2016* (SA) reg 7(4)(b).
- 398 The Commission of Inquiry discusses this policy in volume 5 of their final report. See *Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings*, vol 5, book 2, 4-6.
- 399 *Young Offenders Act 1994* (WA) s 196(2)(e). *Young Offenders Regulations 1995* (WA) reg 79(5).
- 400 *Children and Young People Act* (ACT) s 205.
- 401 *Children and Young People Act* (ACT) s 209(1)(a).
- 402 *Children and Young People Act* (ACT) s 209(1).
- 403 *Children and Young People Act* (ACT) s 209(1)(b).
- 404 *Children and Young People Act* (ACT) s 209(2).
- 405 *Children and Young People Act* (ACT) s 212(1).
- 406 *Children and Young People Act* (ACT) s 212(1).

407 *Children and Young People Act* (ACT) s 212(2).
408 *Children and Young People Act* (ACT) s 213(1).
409 *Children and Young People Act* (ACT) s 213(2).
410 *Children and Young People Act* (ACT) s 213(1).
411 *Children and Young People Act* (ACT) s 214(1)(a).
412 *Children and Young People Act* (ACT) s 214(1)(b).
413 *Children and Young People Act* (ACT) s 214(1)(c).
414 *Children and Young People Act* (ACT) s 214(1).
415 *Children and Young People Act* (ACT) s 214(3).
416 *Children and Young People Act* (ACT) s 215.
417 *Children and Young People Act* (ACT) s 215.
418 *Children (Detention Centres) Act 1987* (NSW) s 16(3).
419 *Children (Detention Centres) Act 1987* (NSW) s 19(1).
420 *Children (Detention Centres) Act 1987* (NSW) s 19(1).
421 *Children (Detention Centres) Act 1987* (NSW) s 19(1)(a).
422 *Children (Detention Centres) Act 1987* (NSW) ss 19(2) & 22(1)(g).
423 *Children (Detention Centres) Act 1987* (NSW) s 19(4).
424 *Children (Detention Centres) Act 1987* (NSW) s 21(1)(d).
425 *Children (Detention Centres) Act 1987* (NSW) s 21(1)(d).
426 *Children (Detention Centres) Act 1987* (NSW) ss 22(1)(f)-(g).
427 *Children (Detention Centres) Act 1987* (NSW) ss 22(1)(h)-(i).
428 *Youth Justice Act 2005* (NT) s 155A(2)(c).
429 *Youth Justice Act 2005* (NT) s 155A(2)(c).
430 *Youth Justice Act 2005* (NT) s 155A(3)(a).
431 *Youth Justice Act 2005* (NT) s 155A(3)(b).
432 *Youth Justice Act 2005* (NT) s 155A(3A).
433 *Youth Justice Act 2005* (NT) s 155A(2)(b).
434 *Youth Justice Act 2005* (NT) s 155A(2)(b).
435 *Youth Justice Act 2005* (NT) s 155A(2)(a).
436 *Youth Justice Act 2005* (NT) s 155A(2)(a).
437 *Youth Justice Act 2005* (NT) s 162; *Youth Justice Regulation 2016* (NT) reg 41.
438 *Youth Justice Regulation 2016* (Qld) reg 21(1)(d).
439 *Youth Justice Regulation 2016* (Qld) reg 21(1)(a).
440 *Youth Justice Regulation 2016* (Qld) reg 21(1)(b).
441 *Youth Justice Regulation 2016* (Qld) reg 21(1)(c).
442 *Youth Justice Regulation 2016* (Qld) reg 21(1)(e).
443 *Youth Justice Regulation 2016* (Qld) reg 21(5).
444 *Youth Justice Administration Act 2016* (SA) s 28(1)(a).
445 *Youth Justice Administration Act 2016* (SA) s 28(1)(b).
446 *Youth Justice Administration Act 2016* (SA) s 28(1)(c).
447 *Youth Justice Administration Act 2016* (SA) s 28(1).
448 *Youth Justice Administration Act 2016* (SA) s 28(2).
449 *Youth Justice Administration Regulations 2016* (SA) reg 6(6)(a).
450 *Youth Justice Administration Regulations 2016* (SA) reg 7(2)(a).
451 *Youth Justice Administration Regulations 2016* (SA) reg 7(2).
452 *Youth Justice Administration Regulations 2016* (SA) reg 6(2)(b).
453 *Youth Justice Administration Regulations 2016* (SA) reg 7(2).

- 454 *Youth Justice Administration Regulations 2016* (SA) reg 7(2)(b).
- 455 *Youth Justice Administration Regulations 2016* (SA) reg 7(2)(c).
- 456 *Youth Justice Administration Regulations 2016* (SA) reg 7(2).
- 457 *Youth Justice Act 1997* (Tas) s 133(2)(a)(i).
- 458 *Youth Justice Act 1997* (Tas) s 133(2)(a)(ii).
- 459 *Youth Justice Act 1997* (Tas) s 132(a).
- 460 *Youth Justice Act 1997* (Tas) s 133(2)(b).
- 461 *Youth Justice Act 1997* (Tas) s 132(a).
- 462 *Children, Youth and Families Act 2005* (Vic) s 488(2).
- 463 *Children, Youth and Families Act 2005* (Vic) s 488(2).
- 464 *Children, Youth and Families Act 2005* (Vic) s 487(a).
- 465 *Children, Youth and Families Act 2005* (Vic) s 72P(2)(a).
- 466 *Children, Youth and Families Act 2005* (Vic) s 72P(2)(b).
- 467 *Children, Youth and Families Act 2005* (Vic) s 72(O).
- 468 *Young Offenders Regulations 1995* (WA) reg 74(1).
- 469 *Young Offenders Regulations 1995* (WA) reg 74(2).
- 470 This is discussed previously at page 21. See also Committee on the Rights of the Child, *General Comment No. 24: Children's Rights in the Child Justice System* (UN Doc No. CRC/C/GC/24, 18 September 2019) 16 [95(h)].
- 471 Australasian Youth Justice Administrators, *National Standards for Youth Justice in Australia 2023* (October 2023) 18.
- 472 *Youth Justice Act 1997* (Tas) s 133(b).
- 473 *Youth Justice Act 2005* (NT) s 155A(2)(b).
- 474 See *Youth Justice Administration Act 2016* (SA) ss 28-29; *Youth Justice Administration Regulations 2016* (SA) regs 6, 7.
- 475 *Youth Justice Act 1997* (Tas) reg 74(1).
- 476 *Young Offenders Act 1994* (WA) s 170.
- 477 *Children (Detention Centres) Act 1987 No 57* (NSW) s 21(1)(d).
- 478 *Children and Young People Act 2008* (ACT) s 206.
- 479 *Children and Young People Act 2008* (ACT) s 141.
- 480 *Children and Young People Act 2008* (ACT) s 172.
- 481 *Children and Young People Act 2008* (ACT) s 176(1)(c).
- 482 *Children and Young People Act 2008* (ACT) s 173.
- 483 *Children and Young People Act 2008* (ACT) s 208.
- 484 *Children and Young People Act 2008* (ACT) s 19(1)(d).
- 485 *Children and Young People Act 2008* (ACT) s 19(1)(c).
- 486 *Children and Young People Act 2008* (ACT) s 19(1)(e).
- 487 *Children and Young People Act 2008* (ACT) s 21(2)(b).
- 488 *Children and Young People Act 2008* (ACT) s 21(2)(a).
- 489 *Children and Young People Act 2008* (ACT) s 21(2)(c).
- 490 *Youth Justice Act 2005* (NT) s 155B(a).
- 491 *Youth Justice Act 2005* (NT) s 155B(b)(i).
- 492 *Youth Justice Act 2005* (NT) ss 155B(b)(ii)-(vi).
- 493 *Youth Justice Act 2005* (NT) ss 155B(c)(i)-(ii).
- 494 *Youth Justice Act 2005* (NT) s 155B(c)(iii).
- 495 *Youth Justice Act 2005* (NT) s 155B(d).
- 496 *Youth Justice Regulations 2006* (NT) reg 42(2)(a)-(b), (d).
- 497 *Youth Justice Regulations 2006* (NT) reg 42(2)(da)-(e).
- 498 *Corrective Services Regulation 2017* (QLD) reg 4.
- 499 *Youth Justice Administration Regulations 2016* (SA) reg 6(6)(c).

- 500 *Youth Justice Administration Regulations 2016* (SA) reg 6(7)(d).
- 501 *Youth Justice Administration Regulations 2016* (SA) reg 7(3)(c).
- 502 *Youth Justice Administration Regulations 2016* (SA) reg 7(3)(d).
- 503 *Youth Justice Administration Regulations 2016* (SA) reg 7(3)(e).
- 504 *Youth Justice Administration Regulations 2016* (SA) reg 7(4)(d)(vi).
- 505 *Young Offenders Regulations 1995* (WA) reg 76(2).
- 506 *Young Offenders Regulations 1995* (WA) reg 76(3).
- 507 *Young Offenders Regulations 1995* (WA) reg 79(3).
- 508 *Young Offenders Regulations 1995* (WA) reg 79(4).
- 509 *Children and Young People Act 2008* (ACT) ss 141, 206.
- 510 *Youth Justice Act 2005* (NT) ss 155B.
- 511 *Children and Young People Act 2008* (ACT) s 208(2).
- 512 *Youth Justice Regulations 2006* (NT) ss 42(2)(a)-(b), (d).
- 513 *Youth Justice Act 2005* (NT) s 155B(c)(iii).
- 514 *Children and Young People Act 2008* (ACT) s 172.
- 515 Noting that these minimum requirements are not required for all forms of isolation in both New South Wales and South Australia.
- 516 Northern Australian Aboriginal Justice Agency, *Submissions on Youth Detention (Royal Commission into the Protection and Detention of Children in the Northern Territory)* (July 2017), 130.
- 517 Northern Australian Aboriginal Justice Agency, *Submissions on Youth Detention (Royal Commission into the Protection and Detention of Children in the Northern Territory)* (July 2017), 130.
- 518 See, for example, *New South Wales v Bujdos* (2005) 227 CLR 1.
- 519 *Corrective Services Regulation 2017* (Qld) reg 4.
- 520 *Children and Young People Act 2008* (ACT) s 222.
- 521 *Children and Young People Act 2008* (ACT) s 217(1).
- 522 *Children and Young People Act 2008* (ACT) s 217(2).
- 523 External reviewer can confirm, amend, or set aside the segregation direction. *Children and Young People Act 2008* (ACT) s 219-220.
- 524 *Children and Young People Act 2008* (ACT) s 221.
- 525 *Children and Young People Act 2008* (ACT) s 207(1).
- 526 *Children and Young People Act 2008* (ACT) s 207(2).
- 527 *Children and Young People Act 2008* (ACT) s 210.
- 528 *Children and Young People Act 2008* (ACT) s 211(1) and (3).
- 529 *Children and Young People Act 2008* (ACT) s 211(4). Note that more than one further safe room direction can be made. See *Children and Young People Act 2008* (ACT) s 211(5).
- 530 *Children and Young People Act 2008* (ACT) s 214(3), 217(1)(d) & 217(3). Note that more than one further segregation direction can be made. *Children and Young People Act 2008* (ACT) s 217(4).
- 531 *Children (Detention Centres) Regulation 2015* (NSW) reg 10(2)(b).
- 532 *Children (Detention Centres) Regulation 2015* (NSW) reg 10(2)(c).
- 533 *Children (Detention Centres) Regulation 2015* (NSW) reg 10(2)(d).
- 534 *Children (Detention Centres) Act 1987* (NSW) s 19(3).
- 535 *Children (Detention Centres) Regulation 2015* (NSW) reg 10(1).
- 536 *Children (Detention Centres) Regulation 2015* (NSW) reg 10(2)(a).
- 537 *Youth Justice Act 2005* (NT) s 155A(7).
- 538 *Youth Justice Act 2005* (NT) s 156.
- 539 *Youth Justice Act 2005* (NT) s 155A(8).
- 540 *Youth Justice Regulations 2006* (NT) reg 72.
- 541 *Youth Justice Regulations 2006* (NT) reg 72(1)(b).
- 542 *Youth Justice Regulations 2006* (NT) reg 72(2).

- 543 *Youth Justice Regulations 2006* (NT) reg 72(1)(c).
- 544 *Youth Justice Act 2005* (NT) s 155A(4).
- 545 *Youth Justice Regulations 2006* (NT) reg 42(3A).
- 546 *Youth Justice Regulations 2006* (NT) reg 42(2)(c).
- 547 *Youth Justice Regulations 2006* (NT) reg 42(2)(c).
- 548 *Youth Justice Regulations 2006* (NT) regs 42(3), 42(4).
- 549 *Youth Justice Regulation 2016* (Qld) reg 21(4).
- 550 *Youth Justice Regulation 2016* (Qld) reg 22.
- 551 *Youth Justice Administration Act 2016* (SA) ss 28(6)(b)-(c).
- 552 *Youth Justice Administration Act 2016* (SA) s 28(5).
- 553 *Youth Justice Administration Act 2016* (SA) s 28(6)(a).
- 554 *Youth Justice Administration Act 2016* (SA) s 28(7).
- 555 *Youth Justice Administration Act 2016* (SA) s 28(8).
- 556 *Youth Justice Administration Act 2016* (SA) s 28(3).
- 557 *Youth Justice Administration Act 2016* (SA) s 28(5)(d).
- 558 *Youth Justice Administration Regulations 2016* (SA) reg 6(6)(b).
- 559 *Youth Justice Administration Regulations 2016* (SA) reg 6(7)(e)-(f).
- 560 *Youth Justice Administration Regulations 2016* (SA) reg 6(7)(g).
- 561 *Youth Justice Administration Regulations 2016* (SA) reg 6(9).
- 562 *Youth Justice Administration Regulations 2016* (SA) reg 6(7)(a).
- 563 *Youth Justice Administration Regulations 2016* (SA) reg 7(3)(b).
- 564 *Youth Justice Administration Regulations 2016* (SA) reg 7(4)(d)(v).
- 565 *Youth Justice Administration Regulations 2016* (SA) reg 7(4)(c)-(d)(iii).
- 566 *Youth Justice Administration Regulations 2016* (SA) reg 7(4)(d)(iv).
- 567 *Youth Justice Act 1997* (Tas) s 133(5).
- 568 *Youth Justice Act 1997* (Tas) s 133(6).
- 569 *Children, Youth and Families Act 2005* (Vic) ss 488(5) & 72P(5).
- 570 *Children, Youth and Families Act 2005* (Vic) ss 488(6) & 72P(6).
- 571 *Children, Youth and Families Regulations 2017* (Vic), reg 32.
- 572 *Children, Youth and Families Act 2005* (Vic), s 488AA.
- 573 *Young Offenders Regulations 1995* (WA) reg 77.
- 574 *Young Offenders Regulations 1995* (WA) reg 76(1).
- 575 *Young Offenders Regulations 1995* (WA) reg 79(2).
- 576 *Young Offenders Regulations 1995* (WA) reg 80.
- 577 *Young Offenders Regulations 1995* (WA) reg 79(1).
- 578 *Children (Detention Centres) Act 1987* (NSW) s 19(3).
- 579 *Children and Young People Act 2008* (ACT) s 214(3), 217(1)(d) & 217(3).
- 580 *Children (Detention Centres) Regulation 2015* (NSW) reg 10(2).



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