

Statement – OPCAT and separate confinement

An Ombudsman thematic investigation report into separate confinement practices in Darwin Correctional Centre has been tabled in the Legislative Assembly.

[Separate Confinement - A Thematic Investigation into Practices in Darwin Correctional Centre](#)

The report focuses on the prevention of ill-treatment during periods of separate confinement through the lens of a National Preventive Mechanism (**NPM**) in accordance with international obligations under the *Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (**OPCAT**).

The NPM is a collection of Australian bodies charged with visiting places of detention and making recommendations aimed at preventing ill-treatment of vulnerable people deprived of their liberty. The Ombudsman has been appointed by the NT Government as interim NT NPM.

The report shows the kind of approach a fully functioning NT NPM network could undertake to protect people from ill-treatment.

Separate confinement

Separate confinement refers to instances where prisoners are restricted from participating in the normal prison routine, being locked in their cell for up to (and in some cases, more than) 22 hours a day. Separate confinement practices pose serious risks to the health and wellbeing of the prisoner, and the risk of harm increases the longer the period of separation.

The investigation reviewed instances of separate confinement exceeding 3 days over a six month period. In some cases, prisoners were separately confined for months. The investigator visited the prison and prisoners, and analysed legislation, policies and procedures, as well as data provided by NT Correctional Services about separate confinement and management regimes.

The report identifies a number of issues of concern, including:

- Separate confinement practices did not appear to be in accordance with legislation, policy and international human rights standards;
- The Centre lacked transparent reporting and recording processes to enable robust external oversight;
- Prisoners in extended periods of separation and/or management regimes involving separation had limited therapeutic or stimulating interventions that would assist their rehabilitation and return to normal prison routine.

The report makes 5 broad recommendations seeking improvements to legislation, policy and procedures, with an additional 11 proposals for more detailed change. In line with the approach under OPCAT, the focus is on working with the detaining authority to improve practice for the future.

OPCAT

Australia signed OPCAT 15 years ago but it is still not fully operational. Legislation to implement the NT NPM role has been developed but there has been no agreement between the Australian, state and territory governments as to ongoing resourcing for this vital role.

Australia continues to see high rates of incarceration and harm in custody, while ill treatment also continues to be found in other places of detention.

In addition to the NT Ombudsman, it is anticipated the NT Children's Commissioner and the Principal Community Visitor will be appointed as NT NPM inspectors when legislation is commenced. None of these offices can effectively implement their NPM roles without adequate funding for functions that are distinct from their other obligations.

Adequate resourcing for all offices will enable essential preventive work like this thematic examination of separate confinement in the future. It will enable NPM inspectors to work to prevent ill-treatment, drive positive change, enhance protections for people deprived of their liberty, increase transparency within closed environments, and generate dialogue with detaining authorities to make communities safer.

As the broader Australian NPM Network has done ([Australian NPM Joint Statement - Little funding for torture prevention in federal Budget](#)), we call on all Australian governments to, where they have not yet done so, appoint NPMs, legislate their role and powers, and adequately resource them so they can discharge their full mandate under OPCAT.



Shahleena Musk
Children's Commissioner



Peter Shoyer
Ombudsman



Jeswynn Yogaratnam
Principal Community Visitor

