



Commonwealth
National
Preventive
Mechanism



FOR CONSUMERS

Post Visit Summary

Christmas Island Police Station

05 August 2024

Table of Contents

Summary	3
Purpose of visit.....	3
What the visit revealed.....	3
Suggestions for Improvement	5
Facility and demographics.....	8
Observations.....	9
Safety.....	9
Emergency Evacuation plans.....	9
Fire Safety.....	9
CCTV.....	10
Duress Alarms.....	11
First Aid.....	12
Chemical Agents.....	13
Intercoms.....	14
At Risk Persons.....	15
Respect	15
Privacy.....	15
Complaints and Legal Advice	16
Religion.....	17
Purposeful Activity.....	18
Outdoor exercise.....	18
Wellbeing and Social Care	19
Meals.....	19
Cleaning arrangements.....	19
Shower and toilet facilities.....	20
Access to fresh air and natural light.....	20
Interviews.....	21
Physical and Mental Health.....	22
Medical care and management.....	22
Methodology	23
The Commonwealth National Preventive Mechanism Mandate	24
Agency Response	25



Summary

Purpose of visit

The Commonwealth National Preventive Mechanism (NPM) conducted an announced visit of the Christmas Island Police Station on 5 August 2023. This was our second visit to the Christmas Island Police Station as part of our role monitoring Australian Federal Police (AFP) places of detention under the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT). The visit was conducted by 3 OPCAT Monitors.

Our previous visit in April 2022 was a familiarisation visit with no Post Visit Summary published.

What the visit revealed

Our 2023 visit to the Christmas Island Police Station found that there are numerous challenges with remote area policing. These can vary significantly depending on the regions' characteristics including its geography, population, culture, and access to reliable technology. During our visit, we found reduced resources were available compared to their mainland counterparts, however the cells are very rarely used due to strong community leadership and police/community relations.

A number of areas of concern were identified including issues with CCTV, interview processes, and fire safety. Accommodation for people in detention was aging due to its proximity to the open ocean, with deficiencies found with regard to duress alarms and intercom systems.

When making recommendations, suggestions or comments it is essential to consider internationally recognised standards and guidelines such as the Mandela Rules, that provide comprehensive guidance on the treatment of individuals deprived of their liberty and the Bangkok Rules, that offer specific provisions tailored to the unique needs and vulnerabilities of women in the criminal justice system.



Moreover, recommendations should align with the principles and guidelines set forth by the Association for the Prevention of Torture (APT) which provides expertise and support to governments, national institutions, and civil society to ensure compliance with international human rights standards.

By incorporating the Mandela Rules, Bangkok Rules, and the expertise of organisations like the APT into recommendations, stakeholders can work towards promoting respect for human rights and improving the treatment of individuals within the detention system.



Suggestions for Improvement



Suggestion 1

A review of firefighting equipment be undertaken:

1. to identify whether the use of CO2 fire extinguishers is appropriate for use in confined places such as cells or if they should be replaced with a more appropriate extinguisher such as water, foam or dry chemical.
2. where a range of fire extinguishers are available for use, fire extinguisher charts outlining the different types of fire extinguishers and their uses be located in areas highly visible to all staff.

Suggestion 2

That the inoperative cameras be repaired as a matter of priority, and that any cell with an inoperative camera is not to be used until repairs are completed.

Suggestion 3

The current monitors be replaced with larger items that enable easy viewing for staff particularly when there are multiple cameras to be viewed on a single screen.

Suggestion 4

CCTV monitors be relocated to a position where they can be easily monitored by staff.

Suggestion 5

Correct date and time stamping be incorporated into the CCTV system.



Suggestion 6

Duress alarms should be clearly identified, well maintained and a regular testing regime be implemented to ensure the system is operational at all times and staff are trained in its operation.

Suggestion 7

The vehicle first aid kit and defibrillator be properly secured and removed from the vehicles when not in use to prevent damage from direct sunlight.

Suggestion 8

That OC foam be made available for use in the detention area to avoid overspray and over deployment of streamer type chemical agents that may affect other people in detention who are not the subject of the deployment.

Suggestion 9

That privacy screens be installed to provide privacy for people in detention from both the cell window and cameras while still allowing sight lines to the upper body for officers to maintain visibility for security and safety purposes.

Suggestion 10

That information regarding legal advice, complaints bodies and mechanisms for making a complaint be mounted on walls in prominent places for people in detention to see. This information should also be accessible to persons with language or understanding difficulties.

Suggestion 11

That prayer mats be obtained for the use of people in detention and direction markers be installed indicating the direction of Mecca.

Suggestion 12

That all ligature points be removed from the exercise yard as far as is reasonably practicable.

Suggestion 13

That minimum exercise requirements be applied to all persons held in custody with appropriate supervision.

Suggestion 14

That all contracted cleaners undertake formal training in forensic cleaning and be provided with the appropriate products.

Suggestion 15

That all cell toilets be made serviceable and their operation be checked as part of a daily inspection schedule whether the cell is in use or not.

Suggestion 16

That a proper DROI facility be installed similar to the ACT Watchhouse which has automatic date and time stamping built in and facility for copies of interviews to be provided immediately to people in detention and/or their legal representative.

Iain Anderson

Commonwealth Ombudsman



Facility and demographics

The Christmas Island Police Station is located on Gaze Road, Christmas Island, approximately 1500km west of the Australian mainland and 2600km from Perth. Although it is an Australian territory, Christmas Island's nearest neighbour is Indonesia, which lies about 350km to the north.

The AFP and its predecessor, the Commonwealth Police, have provided community policing services to Christmas Island since the island became an Australian territory in 1958. The AFP assumed direct responsibility for policing the Indian Ocean Territories (IOT) in 1991 and provides community policing services to Christmas Island. In addition to normal community police functions, the AFP carries out other duties such as processing aircraft, visiting and searching ships and yachts for contraband and immigration purposes, and coordinating emergency operations.

With the enactment of the Territories Reform legislation on 1 July 1992, most Commonwealth and extensive Western Australia law was extended to apply to the IOT including Christmas Island. Western Australian community policing laws are made available to the AFP through delegations made under s8G of the *Christmas Island Act 1955*.

The island is administered by an administrator appointed by Australia's Governor-General. The AFP enforces Commonwealth law including the applied Western Australian Criminal Code and its associated laws.

There is a total of two operational and two non-operational cells with a holding capacity of two persons. There have been a total number of 4 people in detention (three on charges and one in protective custody) held for brief periods at the facility in the previous twelve-month period.



Observations

Safety

Emergency Evacuation plans

At the time of our visit, the Christmas Island Police Station had standalone emergency and evacuation plans which were sighted throughout the facility during our visit. Such information must be easily accessed by all staff and people in detention in the event of an emergency. The Mandela Rules Checklist includes that evacuation plans are in place for the protection of people in detention.¹ The APT also recommends that cells able to be evacuated safely in an emergency.²

Fire Safety

There are fire alarms and prevention systems; however, no automated fire suppression system such as a sprinkler system was observed to be in place.

We observed no fire hose in the facility but there were numerous fire extinguishers throughout, although most were of the Carbon Dioxide (CO₂) variety. Fire extinguisher signage boards were located at all points throughout the facility where firefighting equipment was available.

CO₂ fire extinguishers work by displacing oxygen. As such, they are not suitable for use in a confined area such as a cell due to the risk of asphyxiation. CO₂ extinguishers are only suitable for Class B fires (flammable and combustible liquids e.g. petrol, kerosene, oil, tar, paint and wax) and Class E fires (electrical). It is also an extremely cold substance and frost burn can occur if there is direct contact with the CO₂.³

¹ United Nations Office on Drugs and Crime. (2017). *Assessing compliance with the Nelson Mandela Rules, A checklist for internal inspection mechanisms*. p24

² Association for the Prevention of Torture. (2013). *Monitoring Places of Detention: A Practical Guide*. Geneva, Switzerland. p159.

³ ANSUL. (2016). [Safety Data Sheet](#).



No fire extinguisher chart was seen identifying the different types of fire extinguisher and their suitability for different classes of fire.

Fire safety in detention facilities is of critical concern due to the unique challenges posed by the secure and confined nature of these environments. Ensuring the safety of people in detention during a fire emergency is of the utmost importance. The Nelson Mandela Rules Checklist state that fire safety measures and protocols are to be in place and known by staff.⁴



Suggestion 1

A review of firefighting equipment be undertaken:

- a. to identify whether the use of CO2 fire extinguishers is appropriate for use in confined places such as cells or if they should be replaced with a more appropriate extinguisher such as water, foam or dry chemical.
- b. where a range of fire extinguishers are available for use, fire extinguisher charts outlining the different types of fire extinguishers and their uses be located in areas highly visible to all staff.

CCTV

We observed eight CCTV cameras situated throughout the station and one in each cell. None had infra-red capability; however, they were of a low light variety providing for effective viewing at night. The CCTV screens were far too small for effective viewing and were situated high to the rear of the staff workstations with no direct lines of sight. Viewing of the screen would require staff to be constantly turning around to observe any camera including the detention cells.

The display screen was displaying the incorrect time and four of the cameras were inoperative, including one of the holding cells and the exercise compound. This is inadequate, as such footage must be quickly and easily seen by all staff to allow

⁴ United Nations Office on Drugs and Crime. (2017). *Assessing compliance with the Nelson Mandela Rules, A checklist for internal inspection mechanisms*. p24.

effective and timely responses in the event of an emergency. For evidentiary purposes, it is equally important that CCTV is correctly date and time stamped.

The APT acknowledges that existing standards surrounding the use of CCTV in detention settings are few in number, however, should still be assessed by monitors.⁵



Suggestion 2

That the inoperative cameras be repaired as a matter of priority, and that any cell with an inoperative camera is not to be used until repairs are completed.

Suggestion 3

The current monitors be replaced with larger items that enable easy viewing for staff particularly when there are multiple cameras to be viewed on a single screen.

Suggestion 4

CCTV monitors be relocated to a position where they can be easily monitored by staff.

Suggestion 5

Correct date and time stamping be incorporated into the CCTV system.

Duress Alarms

There are small duress alarm buttons located at strategic points throughout the facility which activated a loud alert tone throughout the station; however, there was an issue with turning the alarm off. It was eventually muted but staff did not know how to operate the system and turn it off effectively.

⁵ Association for the Prevention of Torture. (2013). *Monitoring Police Custody: A Practical Guide*. Geneva, Switzerland. p145.

Duress alarms exposed to the exterior were in poor condition due to local weather conditions. They were covered in rust, and had no effective signage, making it difficult to see that they were duress alarms.

Duress alarms are a vital component in the safety of a detention facility and must be operational at all times.



Suggestion 6

Duress alarms should be clearly identified, well maintained and a regular testing regime be implemented to ensure the system is operational at all times and staff are trained in its operation.



Image 1: Duress alarm in exercise yard

First Aid

First aid kits and defibrillators were located on site and in each vehicle. Staff receive ongoing training in basic first aid including defibrillator use every twelve months.

The vehicles are secured in a closed compound as there is no undercover parking available. The first aid kit and defibrillator were found sitting on the back seat unsecured and in direct sunlight which could lead to them becoming missiles in the event of a motor vehicle crash or lead to irreparable damage from extremes of heat.

First aid in detention facilities is vital to ensure the immediate health and safety of people in detention. It involves providing prompt and appropriate medical care for injuries, illnesses or medical emergencies until professional medical help arrives.



Suggestion 7

The vehicle first aid kit and defibrillator be properly secured and removed from the vehicles when not in use to prevent damage from direct sunlight.

Chemical Agents

There is no Oleoresin Capsicum (OC) foam available at the facility, only OC fogger (aerosol spray). This item carries inherent risks of overspray and over deployment which can enter the ventilation system and be spread throughout the facility consequently affecting other persons in detention who are not the subject of the deployment. When used in a confined space it can also lead to respiratory distress. This is not acceptable, as any chemical agent must be suitable for the environment it is going to be used in which is why they are available in various forms such as fogger, streamer, and foam.

The European Committee for the Prevention of Torture (CPT) notes that the use of such agents in very confined spaces, such as cells, entails manifest risks to the health of both people in detention and staff.⁶ The Royal Commission into the Protection of and Detention of Children in the NT also noted that when gas is deployed, it will affect other people.⁷



Suggestion 8

That OC foam be made available for use in the detention area to avoid overspray and over deployment of streamer type chemical agents that may affect other people in detention who are not the subject of the deployment.

⁶ The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. *CTP Standards*. p69.

⁷ *Report of The Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory*. (2017). Volume 2A, p253.

It should be noted that we are not suggesting the use of OC as an option of first choice. What we are saying is that the type of OC currently being used is not the appropriate type for use in a confined place such as a cell as it can enter the ventilation systems and affect other people not subject to the deployment. The effects of the OC on an individual not the subject of the deployment may be considered torture under OPCAT.

OC is used in every State and Territory Police agency as a lawful use of force option contained within individual agencies Situational Use of Force or Tactical Options Models. These Models identify that only the minimum amount of force should be applied to achieve an objective and that the level of force may de-escalate or escalate at any time based on the changing circumstances. The situation will need to be continually re-assessed. OC may be used on persons who are violent and when other tactical options such as presence and verbalisation have failed.

Article I of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* states that torture "...does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."⁸ As long as the use of the correct form of OC is used as a last resort, and only in accordance with guidelines, it does not constitute torture or ill-treatment.

Intercoms

We tested the intercoms in all cells and saw that they were all functioning. Intercoms are a critical component of detention infrastructure and play a crucial role in ensuring the security and safety of people in detention by providing a means of immediate communication to enable staff to respond to emergencies quickly and efficiently.

The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) stated it is imperative that proper functioning intercom systems are in each cell which give direct communication to custodians for people in detention to summon assistance in the event of illness or emergency.⁹

⁸ *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. General Assembly resolution 39/46. 10 December 1984

⁹ *Royal Commission into Aboriginal Deaths in Custody*, recommendation 140.



At Risk Persons

We were advised that at-risk persons would be managed in line with the ACT Watch House Manual, as far as practicable given the resourcing limitations of a remote station. An additional staff member would also be assigned to sit outside the cell on a 24hr rotating basis to cover any gaps in management. Managing persons at risk is a critical responsibility to ensure the safety, wellbeing and appropriate care of individuals who may be vulnerable or face specific challenges.

The RCIADIC have made several recommendations with regard to at-risk people in detention including their care and management and training of staff.¹⁰

Respect

Privacy

We observed that the cell toilets had no privacy screens fitted, which would leave people in detention in full view of both the viewing window and CCTV camera. Toilet privacy in detention settings is an important aspect of ensuring the dignity, safety, and well-being of individuals. The ICCPR guarantees that no one shall be subjected to arbitrary or unlawful interference with his privacy.¹¹ The APT articulates that sanitary installations should provide adequate privacy.¹²



Suggestion 9

That privacy screens be installed to provide privacy for people in detention from both the cell window and cameras while still allowing sight lines to the upper body for officers to maintain visibility for security and safety purposes.

¹⁰ Royal Commission into Aboriginal Deaths in Custody, recommendations 127(f), 133(a, b & d), 137(d).

¹¹ International Covenant on Civil and Political Rights, Article 17.

¹² Association for the Prevention of Torture. (2004). *Monitoring Places of Detention: A Practical Guide*. Geneva, Switzerland. p146, 147.

Complaints and Legal Advice

We observed that there were no posters or other literature for legal representative or complaints bodies such as legal aid, the Ombudsman or the Commonwealth NPM. We were advised that people in detention are not advised of their right to make a complaint however they are provided with a complaints pamphlet upon release. If a person in detention raised the issue of wanting to make a complaint, they would be directed to the AFP online portal. No internal complaints information was displayed.

Legal Aid Western Australia provides free legal services and are on call 24 hours per day. The existence of an independent mechanism for examining complaints about treatment whilst in police custody is an essential safeguard for ensuring accountability, transparency and the protection of individuals rights.

The Mandela Rules provides that every prisoner shall be provided with written information about his or her rights including authorised methods of seeking information including legal advice and procedures for making complaints.¹³ The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that any person will be provided with information on and an explanation of his rights and how to avail himself of such rights.¹⁴



Suggestion 10

That information regarding legal advice, complaints bodies and mechanisms for making a complaint be mounted on walls in prominent places for people in detention to see. This information should also be accessible to persons with language or understanding difficulties.

¹³ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 54.

¹⁴ United Nations Office of the High Commissioner of Human Rights, *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, Principle 13.

Religion

The primary religion on Christmas Island is Islam, which in 2021 made up 22.1% of the total population.¹⁵ Yet there were no prayer mats in the station available for the use of Muslim people in detention. Staff spoken to had little knowledge of the requirements of the Islamic faith particularly the requirement for Salat (prayers) to be performed five times a day.¹⁶

Freedom of religion or belief is guaranteed by the UDHR¹⁷, the ICCPR¹⁸ and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

The Mandela Rules state that access to a qualified representative of any religion shall not be refused to any prisoner and so far as practicable, every prisoner shall be allowed to satisfy the needs of their religious life by attending the services provided in the prison and having in their possession the books of religious observance and instruction of their denomination.¹⁹

Freedom of religion is a basic human right, and people in detention should have the possibility of exercising it, including the right to attend religious services.²⁰



Suggestion 11

That prayer mats be obtained for the use of people in detention and direction markers be installed indicating the direction of Mecca.

¹⁵ [Australian Bureau of Statistics. Christmas Island. \(2021\).](#)

¹⁶ Australia New Zealand Policing Advisory Agency (ANZPAA), *Religious and Spiritual Diversity Guide for Operational Police. Religious and Spiritual Diversity Guide for Operational Police – Interactive PDF (3).PDF.* p69–77

¹⁷ Universal Declaration of Human Rights, Article 18

¹⁸ International Covenant on Civil and Political Rights, Article 18.

¹⁹ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rules 65 & 66.

²⁰ Association for the Prevention of Torture. *Monitoring Places of Detention: A Practical Guide.* (2004). Geneva, Switzerland. p182.

Purposeful Activity

Outdoor exercise

The cells lead directly into a large concrete exercise yard bordered by tall concrete walls and a steel door at the rear that leads into a secure carpark. The exercise yard had numerous ligature points, being points that something can be tied onto, including but not limited to, a chain on the rear wall for the attachment of a shade cloth, metal bars on the two unused cells, and metal poles holding up a concrete veranda at the front of the cells. Removing ligature points in detention settings is a crucial safety measure aimed at preventing self-harm or suicide among people in detention. Identifying and eliminating these points is a fundamental part of suicide prevention in detention facilities.

We were advised that there is no exercise regime in place, but that individual assessments would be made on a case-by-case basis, taking into account the limitations of the facility and resourcing available. Outdoor exercise is an important aspect of ensuring physical and mental well-being.

The RCIADIC states that Police should carefully scrutinise equipment and facilities provided at institutions with a view to eliminating and/or reducing the potential for harm. Similarly, steps should be taken to screen hanging points.²¹

The Mandela Rules state that every prisoner who is not employed is to have at least one hour of exercise if the weather permits. This requirement applies to all prisoners without exception.²² The European CTP states that persons held in police custody for 24 hours or more should, as far as possible, be offered outdoor exercise every day.²³

²¹ *Royal Commission into Aboriginal Deaths in Custody*, recommendation 165.

²² The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 23 & 42.

²³ The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. *CTP Standards*, standard 42.





Suggestion 12

That all ligature points be removed from the exercise yard as far as is reasonably practicable.

Suggestion 13

That minimum exercise requirements be applied to all persons held in custody with appropriate supervision.



Image 2: Cell entry from exercise yard

Wellbeing and Social Care

Meals

Due to the extremely low use of cells, no frozen or other meals were kept on site. Fresh meals and drinks would be provided on an as required basis from the Chinese Literary Association who are certified in Halal meal preparation.

Cleaning arrangements

The cells were old and had peeling paint but were in a reasonable state of repair. Cleaning arrangements for the cells are under contract. In the event of a self-harm incident or soiling of a cell the area would be sealed off until the next cleaning shift or if the cell is required to be placed back into service immediately, staff on duty would be

required to clean them. Contracted cleaners do not receive training in forensic cleaning.

Forensic cleaning in a detention environment is crucial for maintaining hygiene, managing biohazards, mitigating risk and ensuring the safety of both staff and people in detention.



Suggestion 14

That all contracted cleaners undertake formal training in forensic cleaning and be provided with the appropriate products.

Shower and toilet facilities

There is a shower room in the exercise yard which was ligature minimised, had satisfactory privacy and included a wash bowl, light and duress alarm, all of which were in working order.

We note that the toilet in Cell 1 was not operational and would not flush when the button was depressed. This is inadequate as persons in police custody should have access to a proper functioning toilet facility under decent conditions. The European CPT require that toilets are functioning and hygienic.²⁴



Suggestion 15

That all cell toilets be made serviceable and their operation be checked as part of a daily inspection schedule whether the cell is in use or not.

Access to fresh air and natural light

The cells had their own central air conditioning system which had recently been replaced and was in good working order.

²⁴ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *12th General Report on the CPT's activities*, s47.

Christmas Island experiences a tropical equatorial climate with the daily maximum temperature reaching a high of 28° Celsius in April and the average daily minimum temperature falling to 22° Celsius in August. Humidity usually ranges between 80 – 90%.²⁵

Providing adequate air conditioning in hot and humid environments is essential to ensure the health, safety, and well-being of individuals in detention. The APT states that police cells should have natural light and ventilation, and a temperature appropriate to the climate and season.²⁶

There was sufficient natural light in each cell which had large windows facing into the exercise yard. This was supported by artificial lighting which was working at the time of inspection.

The Mandela Rules state that windows should be large enough to read or work by natural light without injury to eyesight.²⁷

Interviews

There is no Digital Record of Interview (DROI) facility for interviewing people in detention which are currently recorded on a laptop computer using its built-in camera. The camera has a narrow field of view and does not cover the entire room. Interviews conducted in this manner are not time or date stamped and in lieu of this, the day, date and time is read out by the interviewing officers and the person in detention asked to repeat on camera if they agree with what was said. Copies of investigative interviews are unable to be immediately provided to people in detention or their legal representative with usual practice being a USB copy being provided within 7 days.

The European CPT states that the electronic recording of police interviews represents an important additional safeguard against the ill-treatment of people in detention and such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police

²⁵ Discover Christmas Island. *Christmas Island Climate*. <https://www.christmas.net.au/discover-christmas-island/about-christmas-island/>

²⁶ Association for the Prevention of Torture. *Monitoring Police custody, A practical guide*. (2017) Geneva, Switzerland. p156.

²⁷ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 14.



officers confronted with unfounded allegations that they have engaged in physical ill-treatment or the application of psychological pressure.²⁸



Suggestion 16

That a proper DROI facility be installed similar to the ACT Watchhouse which has automatic date and time stamping built in and facility for copies of interviews to be provided immediately to people in detention and/or their legal representative.

Physical and Mental Health

Medical care and management

There is no medical room available at the police station. Medical services are provided by Christmas Island Hospital and Clinical Forensic Medical Services (CFMS) of ACT Health both of which are on call 24 hrs a day.

Medical care and management of people in police custody is essential in upholding human rights, ensuring safety and well-being, addressing immediate health needs, and complying with legal and ethical obligations. It plays a critical role in preserving life, providing necessary healthcare, and promoting a just and humane treatment of individuals in the criminal justice system.

²⁸ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, *2nd General Report on the CPT's activities*, s39 and the *12th General Report on the CPT's activities*, s36

Methodology

The Commonwealth NPM visits places of detention to:

- monitor the treatment of people in detention and the conditions of their detention and
- identify any systemic issues where there is a risk of torture or ill-treatment
- make recommendations, suggestions, or comments promoting systemic improvement.

The Commonwealth NPM conducts three types of visits: announced, unannounced, and semi-announced. The type, location, and timing of each visit is determined by the Commonwealth NPM alone.

Each place of detention is assessed in terms of its performance based on the management and conditions for people in detention. We assess these against the 5 indicators of a healthy detention facility, adapted from those used by other international and domestic visiting bodies.

The five indicators of a healthy centre are²⁹:

Indicator	Description
Safety	People in detention are held in safety and that consideration is given to the use of force and disciplinary procedures as a last resort
Respect	People in detention are treated with respect for their human dignity and the circumstances of their detention
Purposeful activity	The detention facility encourages activities and provides facilities to preserve and promote the mental and physical well-being of people in detention
Well-being and social care	People in detention are able to maintain contact with family and friends, support groups, and legal representatives, and have a right to make a request or complaint
Physical and mental health	People in detention have access to appropriate medical care equivalent to that available within the community. Stakeholders work collaboratively to improve general and individual health conditions for people in detention

²⁹ These indicators have been adapted from expectations used by international and domestic inspectorates.



The Commonwealth National Preventive Mechanism Mandate

OPCAT is an international human rights treaty designed to strengthen the protections for people deprived of their liberty and potentially vulnerable to mistreatment and abuse.

OPCAT does not create new rights for people who are detained, rather it seeks to reduce the likelihood of mistreatment. OPCAT combines monitoring at an international level (by the Subcommittee for the Prevention of Torture) and by NPMs at a domestic level.

NPMs are independent visiting bodies, established in accordance with OPCAT, to examine the treatment of persons deprived of their liberty, with a view to strengthening their protection against torture and other cruel, inhuman, or degrading treatment or punishment.

An NPM is not an investigative body. The mandate of an NPM working against torture is preventive: it seeks to pro-actively identify patterns and detect systemic risks of torture, rather than reacting to complaints.

In July 2018, the Australian Government announced the Commonwealth Ombudsman as the visiting body for Commonwealth places of detention (the Commonwealth NPM). At present, the Commonwealth NPM visits places of detention operated by:

- the Department of Home Affairs
- the Australian Federal Police
- the Australian Defence Force





ACT Policing

April 2024

Mr Ian Anderson
Manager
Commonwealth and ACT Ombudsman

Dear Mr Anderson

Ian

Thank you for your correspondence to the Commissioner dated 20 March 2024.

The Commissioner has asked me to respond in relation to the report on the National Preventive Mechanism (NPM) Visits to the Indian Ocean Territories under the *Operational Protocol to the Prevention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) by the Commonwealth NPM and your office in August 2023.


The AFP appreciates the opportunity to provide comment on the Report and a response to the findings and associated suggestions. The AFP is actively seeking to address and implement all suggestions where appropriate. Already we have directed members not to use cells with inoperative CCTV, have a project underway to upgrade CCTV and associated equipment, implemented a process to meet your requirements for vehicle first aid kits, and have sought legal advice for the information to display to assist people in detention.

The AFP has developed a preliminary response to your suggestions in **attachment A** and acknowledges progress in relation to the suggestions will be monitored in the next OPCAT inspection. The AFP is committed to addressing the issues raised in the Report, including progressing further initiatives to achieve a high level of ongoing compliance throughout our facilities. We note however, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (DITRDCA) agreement and investment is required to fully execute the suggestions.

The AFP notes content within the final Report will be included with your publicly available annual report and we are grateful for the opportunity to review the Report for any sensitive information. Some content has been identified as sensitive police methodology within the PVS for Cocos (Keeling) Islands, including staff numbers, CCTV viewing spots, and detainee movements. A version with the sensitive content highlighted has been provided for your consideration (**attachment B**).

Should you require any additional information please contact [REDACTED]

Yours sincerely


Deputy Commissioner Scott Lee APM
Chief Police Officer of the ACT

Chief Police Officer for the ACT

/ GPO Box 401 Canberra ACT 2601
/ Telephone: 02 5127 4015
/ Email: CPOACT@afp.gov.au

Disclaimer

The Commonwealth owns the copyright in all material produced by the Ombudsman. With the exception of the Commonwealth Coat of Arms, the Office of the Commonwealth Ombudsman's logo, any material protected by a trade mark, and where otherwise noted, all material presented in this publication is provided under a Creative Commons Attribution 4.0 licence.

The details of the relevant licence conditions are available on the Creative Commons website (creativecommons.org/licenses/by/4.0/deed.en) as is the full legal code for the CC BY 4.0 licence.

The Commonwealth's preference is that you attribute this report and any material sourced from it using the following wording:

Source: Licensed from the Commonwealth Ombudsman under a Creative Commons 4.0 licence. This report is available from the Commonwealth Ombudsman website at www.ombudsman.gov.au.

Use of the Coat of Arms

The terms under which the Coat of Arms can be used are set out on the It's an Honour website www.pmc.gov.au/government/its-honour

Contact us

Inquiries regarding the licence and any use of this report are welcome at:

Commonwealth Ombudsman

Level 5, 14 Childers Street

Canberra ACT 2600

Tel: 1300 362 072

Email: ombudsman@ombudsman.gov.au