



Commonwealth
National
Preventive
Mechanism



FOR CONSUMERS

Post Visit Summary

Cocos (Keeling) Islands Police Station

02 August 2024

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Summary

Purpose of visit

The Commonwealth National Preventive Mechanism (NPM) conducted an announced visit to the Cocos (Keeling) Islands (CKI) Police Station on Wednesday 2 August 2023. This was the first visit conducted as the Commonwealth NPM. The visit was conducted by 3 OPCAT Monitors.

What the visit revealed

Our 2023 visit to the CKI Police Station found that there are numerous challenges with remote area policing which can vary significantly depending on the region's characteristics, including its geography, population, culture, and access to reliable technology. During our visit we found reduced resources 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 and a lack of familiarity with its use. Detainee accommodation was aging due to its proximity to the open ocean, with deficiencies found with regard to ligature points and non-operational intercom systems. Despite these deficiencies, the overall risk was low given the cells are rarely used.

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

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

Suggestion 2

Date and time stamping be incorporated into the system.

Suggestion 3

All staff to undergo training in the operation of the CCTV system.

Suggestion 4

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 5

That working intercoms be installed in each cell and a regular testing regime be implemented to ensure the system is operational at all times and that staff are trained in its operation.

Suggestion 6

That the gym be relocated to allow people in detention, particularly those who are non-compliant, to be escorted directly into the detention area.

Suggestion 7

A review of the cells be undertaken to remove all potential ligature points.



Suggestion 8

That an upgrade to the cell windows be undertaken to allow people in detention to see out but does not allow people in the general community to see in.

Suggestion 9

All staff who may be required to undertake detention duties undergo the same training as ACT Watchhouse staff, including the management of at-risk people in detention.

Suggestion 10

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

Suggestion 11

A formal arrangement be put in place, e.g. an appointment of Special Members, to ensure that any person conducting a search is appropriately trained and qualified to do so and covered by legislative requirements.

Suggestion 12

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 13

That the cyclone fence surrounding the exercise yard be upgraded to provide better security and privacy.

Suggestion 14

That cleaners undertake formal training in forensic cleaning, and be stocked with appropriate forensic cleaning products.



Suggestion 15

That the shower be repaired and a regular testing regime be implemented to ensure it is maintained in good working order.

Suggestion 16

That the non-operational air conditioning system be replaced with a new unit and that a regular testing regime be implemented to ensure it is maintained in good working order.

Suggestion 17

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.

Iain Anderson

Commonwealth Ombudsman



Facility and demographics

The Australian Federal Police (AFP) provides community policing services to the CKI. In addition to normal 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 Western Australian laws were extended to apply to the Indian Ocean Territories (IOT) including the CKI. Western Australian community policing laws are made available to the AFP through delegations made under s8G of the *Cocos (Keeling) Islands Act 1955*.

The CKI Police Station is situated on West Island, was constructed in about 1993, and has 2 cells capable of detaining up to 3 people in short term custody. No one has been detained in the cells since 2021 and no persons were in custody during our visit.

There is a secondary small Police office on Home Island with no holding facility. If someone was taken into custody on Home Island (or any other island in the archipelago), they would be transferred via boat to the West Island facility.

The CKI Police Station currently operates under a static staffing model consisting of a limited number of sworn AFP Officers and Locally Employed Members (LEM's).



Observations

Safety

Emergency Evacuation plans

At the time of our visit, the CKI Police Station had standalone emergency and evacuation plans in place. There were numerous emergency evacuation plans in every room of the facility sighted during our visit. It is imperative that such information is easily accessed by all staff and people in detention in the event of an emergency. The Mandela Rules require evacuation plans be in place for the protection of people in detention¹ and the Association for the Prevention of Torture (APT) also suggests that cells must be able to be evacuated safely in an emergency.²

Fire Safety

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

We saw 3 dry powder fire extinguishers located throughout the station which were last tested in July 2023. Fire extinguisher signage boards were located at all points throughout the facility where firefighting equipment was available.

In the event of a fire, the detainee area can be evacuated via two routes through the front and rear of the station.

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 both people in detention and staff during a fire emergency is of the utmost importance.

The Nelson Mandela Rules Checklist states that fire safety measures and protocols are to be in place and known by staff.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 Police Custody, A Practical Guide*. Geneva, Switzerland p159.

³ United Nations Office on Drugs and Crime. (2017). *Assessing compliance with the Nelson Mandela Rules, A checklist for internal inspection mechanisms*. p24.

CCTV

We observed CCTV cameras distributed throughout the facility including:

- the detention area which had infra-red capability for nighttime viewing.
- each cell which had good coverage with no apparent blind spots.
- All common and equipment areas
- All corridors

CCTV is monitored in the staff workstation on two very small monitors which did not show a date or time stamp. Monitors found it difficult to observe the cells on such a small screen that had 4 cameras on the screen at once. When staff were asked about the lack of a date and time stamp on the monitor it was apparent that they were unfamiliar with the operation of the CCTV systems and its controls, and after some time they were unable to determine if recordings are date and time stamped.

This is inadequate, as such footage must be quickly and easily seen by all staff to allow 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. It also provides protection for people in detention, as any claims of ill-treatment, or cruel or degrading treatment would be able to be verified by viewing such footage.

The APT acknowledges that existing standards surrounding the use of CCTV in detention settings are few in number, however, should still be assessed by OPCAT Monitors.⁴



Suggestion 1

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

Suggestion 2

Date and time stamping be incorporated into the system.

⁴ Association for the Prevention of Torture. (2013). *Monitoring Police Custody: A Practical Guide* Geneva, Switzerland, p145.

Suggestion 3

All staff to undergo training in the operation of the CCTV system.

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 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.⁵ 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.⁶



Suggestion 4

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.

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.

⁵ The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. *CTP Standards*. p69.

⁶ *Report of The Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* Volume 2A, p253.

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."⁷ 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.

Intercom and emergency call function

We observed that the cells had an emergency call button installed in lieu of a 2-way intercom system, however they were not functioning at the time of our visit. There was no other method of communication between the cells and staff workstations.

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.

As recommended in the *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) 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.⁸



Suggestion 5

That working intercoms be installed in each cell and a regular testing regime be implemented to ensure the system is operational at all times and that staff are trained in its operation.

⁷ *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. General Assembly resolution 39/46. 10 December 1984

⁸ *Royal Commission into Aboriginal Deaths in Custody*, recommendation 140.

Accessibility

People enter the detention area through the front door of the station proper where the front counter also serves as the charge counter. They are then escorted through to the detention area. This poses a risk to the safety of both people in detention and staff with the potential for injury to both from a myriad of items including furniture if a detainee becomes non-compliant.

The safety of people in detention is paramount and moving them through workspaces poses a safety risk if they become non-compliant. They may be injured, sometimes seriously, due to the myriad of items in workspaces such as trip hazards, or access to improvised weapons such as pens, scissors, keyboards, computer screens etc. They can also use any of these items for the purpose of self-harm whilst being transferred to the detention area or hide them from staff to self-harm in the cells.

There is a second entrance at the rear of the station which leads through a room that is currently being used as a staff gym. This leads directly into the detention area and would be more suitable for detainee movement as it negates moving people in detention through the common workspaces which poses a safety risk.



Suggestion 6

That the gym be relocated to allow people in detention, particularly those who are non-compliant, to be escorted directly into the detention area.

Cells

We observed that the cells were old, with ligature points throughout. In particular the ceiling had a manhole cover and the floor had a commercially available drain cover, both of which could be used as ligature points. In 1985, the RCIADIC stated 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.⁹

⁹ Royal Commission into Aboriginal Deaths in Custody, recommendation 165.

The cell windows offer no privacy as they back onto the general community including houses and a school playground where people can see in through the cell window. The privacy of people in detention must be respected to safeguard dignity and confidentiality. The ICCPR states that no one shall be subjected to arbitrary or unlawful interference with his privacy.¹⁰



Suggestion 7

A review of the cells be undertaken to remove all potential ligature points.

Suggestion 8

That an upgrade to the cell windows be undertaken to allow people in detention to see out but does not allow people in the general community to see in.



Image 1: Cell 1 Entrance

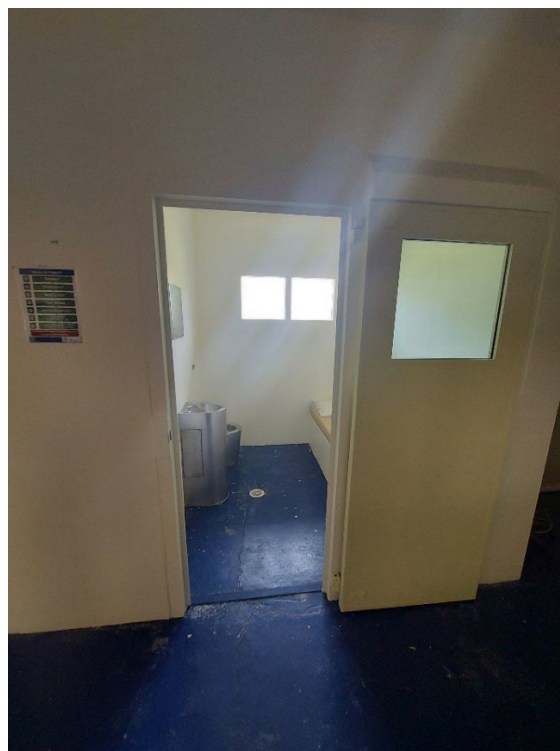


Image 2: Cell 2 Entrance

¹⁰ *International Covenant on Civil and Political Rights*, Article 17.

At Risk Persons

We spoke to the Officer in Charge (OIC) of the station who advised that there was no procedure for managing people at risk of death or harm through illness, injury or self-harm at the station, and anyone deemed to be at-risk would be treated like any other detainee. We are concerned at the lack of knowledge displayed by staff and the lack of protocols for the care and management of at-risk people in detention. Managing at-risk people in detention is a critical responsibility to ensure the safety, wellbeing and appropriate care of individuals who may be vulnerable or face specific challenges.

The RCIADIC made several recommendations regarding at-risk people in detention including their care and management and training of staff.¹¹



Suggestion 9

All staff who may be required to undertake detention duties undergo the same training as ACT Watchhouse staff, including the management of at-risk people in detention.

Respect

Privacy

We observed that the cell toilets had no privacy screens fitted so people in detention are in full view of both the viewing window in the equipment room and CCTV camera when using the facility. Toilet privacy in detention settings is an important aspect of ensuring the dignity, safety, and well-being of individuals in custody. The ICCPR guarantees that no one shall be subjected to arbitrary or unlawful interference with his privacy¹² and the APT articulates that sanitary installations be in working order and provide adequate privacy¹³.

¹¹ *Royal Commission into Aboriginal Deaths in Custody*, recommendation 127(f), 133(a, b & d), 137(d)

¹² *International Covenant on Civil and Political Rights*

¹³ Association for the Prevention of Torture. (2004). *Monitoring Places of Detention, A Practical Guide*. Geneva, Switzerland. p146, 147



Suggestion 10

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

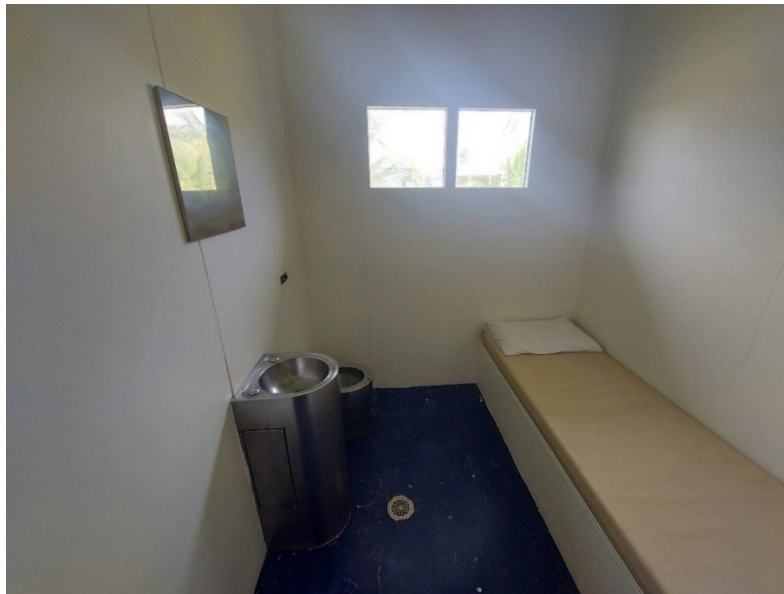


Image 3: No privacy screens fitted for toilets

Female staff

There are currently no permanent female staff members rostered to Cocos (Keeling) Islands Police Station. We were advised by the OIC that if a female person was brought into custody, they would need to request assistance from non-policing females in the community to conduct a pat search before detaining. This would likely mean having the medical staff from the contracted medical service or a female government official such as an Australian Border Force (ABF) member, a Parks and Wildlife Ranger or the OIC's wife who is a former serving police officer conduct the search. If they are aware that they are likely to have a female in detention, they would request a female AFP member from Christmas Island fly over to support the detention process.

This raises significant privacy and legal concerns for officers, and anyone asked to perform the search function including, but not limited to, issues of consent, use of force, training, proper use of powers and legal protections.



The Bangkok Rules state that searches conducted on women shall only be carried out by women staff who have been properly trained.¹⁴ For strip searches, s3Z1 of the *Crimes Act 1914* (Cth) prescribes that the search “*must be conducted by a constable who is of the same sex as the person being searched*”.¹⁵

Searches that are conducted by persons who are properly authorised, trained and qualified ensures respect for privacy, dignity, cultural sensitivity and legal compliance while promoting a safer and more trusting environment within detention facilities.



Suggestion 11

A formal arrangement be put in place, e.g. an appointment of Special Members, to ensure that any person conducting a search is appropriately trained and qualified to do so and covered by legislative requirements.

Complaints & Legal Advice

We observed that there were no posters or pamphlets for legal representation 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 but if they raised the issue of wanting to make a complaint, they would be directed to the AFP online portal which they could access on the station’s computers. There were also cards outlining the AFP complaints process which could be handed to them upon release.

Legal Aid Western Australia provides free legal services and are on call 24 hours per day. The existence of an independent mechanism for obtaining legal advice and 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 provide 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.¹⁶ The Body of Principles

¹⁴ *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women*, Rule 19.

¹⁵ [Crimes Act 1914 \(Cth\), s.3Z1\(i\)\(b\)](#)

¹⁶ *The United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules), p16.

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.¹⁷



Suggestion 12

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.

Religion

The primary religion on Cocos (Keeling) Islands is Islam, which in 2021 made up 65.6% of the total population.¹⁸ Staff had a good understanding of the Islamic faith, particularly the requirement for Salat (prayers) to be performed five times a day.¹⁹ Prayer mats and access to a local Imam were available on request. Freedom of religion is a basic human right, and people in detention should have the opportunity to exercise it, including the right to attend religious services.²⁰

Purposeful Activity

Outdoor exercise

There is a small corridor in the cell area which can be used for persons in detention to exercise; however, there was staff gym equipment taking up much of this space. There is also a grassed area with a cyclone mesh fence which can be utilised under staff supervision. This fence is not a security fence and as such is not suitable for its purpose for the provision of appropriate security or privacy.

¹⁷ UN 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.

¹⁸ [Australian Bureau of Statistics, Cocos \(Keeling\) Islands. \(2021\).](#)

¹⁹ 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

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

The exercise area backs onto community houses and a children’s playground, and thus does not afford privacy to a person in detention who may use it. The OIC advised this area would only be used on the proviso that the person was not a risk to others in the community and vice versa as the area is in full view of the broader community.

The staff spoken to were not aware of minimum standards for exercise. Respecting the privacy of people in detention is crucial for maintaining their dignity and well-being.

The Mandela Rules state that every prisoner who is not employed is to have at least 1 hour of exercise if the weather permits and this requirement is to apply to all prisoners without exception.²¹ 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.²²



Suggestion 13

That the cyclone fence enclosing the exercise yard be upgraded to provide better security and privacy.



Image 4: Exercise yard with low cyclone fence, and full view of school

²¹ *The United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules), Rule 23 & 42.

²² The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. *CTP Standards*, standard 42.

Wellbeing and Social Care

Meals

Due to the extremely low use of the cells, no frozen or other meals are kept onsite. Fresh meals and drinks are provided on an as required basis from the local supermarket and are all halal certified. This is adequate in the circumstances.

Cleaning arrangements

The cells were clean and in a good state of repair. Cleaning arrangements for the cells are under contract to the Cocos Islands Cooperative Society (Cocos Co-op) and undertaken every Tuesday and Friday and every day when people are in custody. 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 was required to be placed back into service immediately, cleaners can be called in 24 hours a day 7 days per week. Cleaners are not trained 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 cleaners undertake formal training in forensic cleaning and be stocked with appropriate forensic cleaning products.

Shower and toilet facilities

The cell block has a shower facility which was not functional at the time of our inspection. If anyone was held in custody, they would be escorted to the staff showers at the other end of the station, which would require being walked through the staff amenities area and kitchenette. Functioning showers are essential to maintaining the health, hygiene and overall well-being of individuals who are in detention.

The Mandela Rules require shower installations be provided for use as frequently as necessary for general hygiene,²³ and the APT requires sanitary facilities to be in good condition, clean, sufficient in number and easy to access.²⁴



Suggestion 15

That the shower be repaired and a regular testing regime be implemented to ensure it is maintained in good working order.

Access to fresh air and natural light

The cells have no access to fresh air. They have their own central air conditioning system but this has not been operational for some time. The current unit has been repaired in the past but is not operational again. It had been reported to the facilities management provider, JLL, two weeks prior to our visit but had still not been repaired. The OIC indicated the unit was old, continually breaking down and now requires replacing.

The Cocos (Keeling) Islands are situated in the humid tropical zone with a daily maximum temperature of 28.9°C and average daily minimum temperature of 24.4°C. Relative humidity typically ranges between 65% and 90% with a mean of 75%.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

All cells had access to plenty of natural light from windows which have been fitted into each cell and are sufficiently well-lit through artificial light.

²³ *The United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules), Rule 16.

²⁴ [Association for the Prevention of Torture. *Sanitary facilities and personal hygiene*.](#)

²⁵ [Australian Government Department of Climate Change, Energy, the Environment and Water. *Cocos \(Keeling\) Islands. Climate*.](#)

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



Suggestion 16

That the non-operational air conditioning system be replaced with a new unit and that a regular testing regime be implemented to ensure it is maintained in good working order.

Interviews

We saw 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 which has a limited 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 officers confronted with unfounded allegations that they have engaged in physical ill-treatment or the application of psychological pressure.²⁷



Suggestion 17

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.

²⁷ 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.

Physical and Mental Health

Medical care and management

Medical services are provided by the Indian Ocean Territories Health Services (IOTHS) and consist of rotating shifts of:

- 1 Doctor
- 5-6 Nurses

There is no medical room available at the police station, however, medical staff are on call 24 hrs a day from IOTHS who are in close proximity to the station and will attend the station as required. Clinical Forensic Medical Services (CFMS) in Canberra are also available via telephone to provide advice 24 hrs per day.



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 are²⁸:

| 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 |

²⁸ These indicators have been adapted from expectations used by international and domestic inspectorates.

The Commonwealth National Preventive Mechanism Mandate

The *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (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 National Preventive Mechanisms (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

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Commonwealth Ombudsman

Level 5, 14 Childers Street

Canberra ACT 2600

Tel: 1300 362 072

Email: ombudsman@ombudsman.gov.au