



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
5 June 2024

Original: English  
English, French and Spanish only

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**Committee against Torture**

**Information received from Australia on follow-up to the  
concluding observations on its sixth periodic report\***

[Date received: 13 May 2024]

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\* The present document is being issued without formal editing.



## **I. Additional information provided to the United Nations Committee against Torture by the Australian Government in response to the Committee’s Concluding Observations (CAT/C/AUS/CO/6)**

1. The Committee against Torture, in its Concluding Observations on Australia, published on 28 November 2022 (CAT/C/AUS/CO/6), requested at paragraph 53 that Australia provide ‘follow-up to the Committee’s recommendations on mandatory immigration detention, including of children; conditions of detention; and juvenile justice’.
2. Australia notes the Committee’s recommendations at paragraphs 28, 32 and 38 of the Concluding Observations.
3. Australia’s follow-up information on these issues is provided below.
4. Jurisdiction-specific information on recent measures on these issues is available in the Appendix.

### **Mandatory immigration detention, including of children**

5. Australia is entitled to take measures to uphold the integrity of Australia’s national borders. Under the Migration Act 1958 (Migration Act), a person who does not hold a valid visa is an unlawful non-citizen and must be detained so that they can undergo the relevant security, health and identity checks to ensure that they do not pose an unacceptable risk to the community.
6. Immigration detention ends when the person is either granted a visa or is removed from Australia. This is dependent upon a number of factors, including identity determination, developments in country information, and the complexity of processing due to individual circumstances relating to health, character or security matters.
7. Immigration detention is administrative in nature and is not used for punitive purposes. When an individual is detained, their detention is pursuant to the Migration Act and not to an arrest or charge for any criminal offence.
8. The relevant Minister has the flexibility to release persons from detention by granting them a visa under section 195A of the Migration Act, or to place them in a residence determination arrangement (community detention) under section 197AB of the Migration Act, depending on the circumstances of the case. In most circumstances, non-citizens in Australia may seek merits review of a visa refusal or cancellation decision through the Administrative Appeals Tribunals (AAT), or in some circumstances, through a referral to the Immigration Assessment Authority (IAA). Judicial review, including appellate review, is also available for AAT and IAA decisions.
9. In *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs & Anor* [2023] HCA 37 (NZYQ), the High Court found that unlawful non-citizens cannot continue to be kept in immigration detention for the purpose of their removal from Australia once there is no real prospect of their removal becoming practicable in the reasonably foreseeable future.
10. Immigration detention of children is always a last resort. Children are detained for the shortest time practicable in Alternative Places of Detention (APODs) and not in an immigration detention centre. Where children are held in APODs, arrangements are in place to support best practice and adherence to child safeguarding obligations. Unaccompanied minors and families with minor children are referred to the relevant Minister for a residence determination decision for their prompt transfer from the APOD into the community, subject to the completion of identity, health and security checks. Australia considers the best interests of children in any action taken concerning that child, and provides minors with access to free school education during the compulsory school age years, according to state or territory law. At 31 August 2023, there were no children (aged less than 18 years) in immigration detention facilities.

11. The Australian Government ensures that all detainees are accommodated in facilities most appropriate to their needs, circumstances and risk profile, and have access to health services, appropriate food (accommodating dietary and cultural requirements), educational programs, cultural, recreational and sporting activities, internet and computer facilities, televisions, and clean, comfortable sleeping quarters.

12. The Australian Government contracts a health service provider, International Health and Medical Services (IHMS) to ensure that health services in detention centres, including mental health services, are comparable to those available to the Australian community under the public health system.

13. The use of force in immigration detention facilities, including the use of restraints, is used as a last resort. The use of force is subject to stringent reporting and oversight processes and powers exercised by Australian Border Force (ABF) officers and the Facilities and Detention Service Provider which are underpinned by clear risk-based policy guidance, training and decision-making by senior officers.

14. Persons involved in detainee violence are immediately separated, with medical assistance offered where required. Within 24 to 48 hours of an incident, placement arrangements for the detainees must be reviewed to determine suitability.

15. All detainees in immigration detention have the right to lodge complaints without hindrance or fear of reprisal, and are made aware of their rights, including those under international human rights law, and avenues to complain and seek redress. Complaints can be made to service providers, the ABF, the Department of Home Affairs, Commonwealth Ombudsman or Australian Human Rights Commission. A complainant's identity and all complaints are treated as strictly confidential, with mechanisms in place to ensure a complainant's anonymity.

16. Information on immigration detention is limited to this section. Subsequent sections on conditions of detention and juvenile justice do not relate to immigration detention.

### **Conditions of detention**

17. In 2021–2022, Australia's national imprisonment rate dropped for the third consecutive year and prison utilisation dropped in all jurisdictions, where data is available, except for the Northern Territory. Most offenders guilty in criminal courts received a non-custodial sentence, and over half received a monetary order as their principal sentence.

18. State and territory governments' ongoing efforts to improve conditions of detention include investing in new fit-for-purpose prisons and youth justice facilities. Efforts to improve conditions of detention also include rehabilitation and reintegration programs to reduce recidivism, programs to divert people out of the criminal justice system and provide alternatives to prison and youth detention.

19. Australian states and territories deliver adult corrective services in accordance with the Guiding Principles for Corrections in Australia (the Guiding Principles). The Guiding Principles are used in developing relevant legislative, policy and performance standards on correctional practice. The Guiding Principles have been informed by internationally accepted rules, standards and practices including the Nelson Mandela Rules, the Tokyo Rules and the Bangkok Rules.

20. In 2021–2022, 80% of eligible adult prisoners were employed and 24% of eligible adult prisoners participated in prisoner education and training. On average, in 2021–22, adult prisoners spent 9 hours out of cells per day. The Guiding Principles provide for prisoner rehabilitation and reintegration including that prisoners have access to nationally recognised education programs which are matched to prisoners' educational level and learning needs, and aligned with vocational training that assists them to gain employment post release. The Time to Work Employment Service is a national voluntary in-prison employment service which assists adult, sentenced First Nations people to access the support they need to better prepare them to find employment and reintegrate into the community upon their release from prison.

21. The provision of education opportunities exists across each jurisdiction in Australia, including co-located schools in many youth justice settings. Whilst education programs vary, they generally include literacy and numeracy support and provide opportunities for young people to undertake vocational education and training and access libraries, learning centres and IT equipment. Jurisdictions also provide resilience programs, psychological and drug and alcohol support, release transition services, pastoral care, and, cultural, sport and recreation, family engagement, parenting and peer support programs.

22. In each state and territory, corrective and/or health services ensure an adequate standard of health care is provided to those detained in correctional or youth justice facilities. While in custody, detainees receive the same level of health care the general public would receive under Australia's public health system. Policies provide that all detainees undergo an initial physical and mental health assessment as soon as practicable following admission to a youth justice or correctional facility (typically within 24 hours), and any ongoing risks and needs are addressed in the detainee's case management plan.

23. The Australian Charter of Healthcare Rights applies to all people in detention in Australia, and requires detainees be treated with respect; receive safe and high-quality health services provided with professional care and competence; and have their health information protected and treated appropriately.

24. The Australian Government's independent review of health care services for First Nations people in prison, due to be considered by Health Ministers in mid-2024, will provide recommendations for all Australian governments to improve health outcomes for First Nations people in prison. The concurrent co-design process to strengthen Aboriginal Community Controlled Health Sector-led models of prisoner health care will further help ensure greater access to effective, culturally-safe and equitable health services for First Nations people in prison.

25. Under Australia's Disability Strategy 2021–2031 (ADS), Australian governments have agreed to work to ensure the criminal justice system responds effectively to the complex needs and vulnerabilities of people with disabilities and to reduce the over-representation of people with disability across the criminal justice system. The ADS reflects the respective roles and responsibilities of governments in Australia's federal system and enables focussed, collaborative effort.

26. The Guiding Principles provide that correctional practices identify, minimise and manage any risks to prisoners and that prisoners, particularly those most vulnerable or at-risk, are safe from bullying, intimidation and victimisation, including verbal, mental or physical abuse, damage or property theft.

27. State and territory requirements regarding the use of restraints in adult correctional facilities align with the Guiding Principles. Across jurisdictions, custodial staff are trained in appropriate methods of restraint and control, based on the principle of de-escalation and using the minimum level of force required to maintain good order, the safety of the public, staff and other prisoners. The Guidelines provide that the use of force and security measures, including instruments of restraint, weapons and chemical agents, are lawful but used as a last resort with the minimum force necessary used to manage the situation. The use of restraints by corrective services is subject to regulation and oversight and generally requires authorisation, recording and review processes.

28. Spit hoods and similar equipment are no longer used in federal justice settings. All states and territories prohibit the use of spit hoods on minors in youth justice or police detention. On 22 September 2023, at the Standing Council of Attorneys-General (SCAG), jurisdictions agreed to individually review any continuing use of spit hoods in detention settings, including reviewing the suitability of alternative protective measures.

29. Procedures for strip searches vary between jurisdictions. However, any search of a person, including a child or young person, must be carried out in strict compliance with the requirements of the relevant jurisdiction's legislation. The procedures include a range of measures to safeguard the prisoner's dignity and self-respect, including processes to maintain privacy so far as possible; avoiding any unnecessary force; not touching the prisoner as part of the search except where reasonable force is used to compel participation; and the search

being carried out by a person of the same gender as the detainee. In all jurisdictions, registers on searches must be kept and be able to be inspected by independent monitoring bodies.

30. The increasing use of body scanners across jurisdictions is significantly reducing the use of semi-naked searches. Most jurisdictions use body scanners in correctional facilities, including youth justice facilities, with a goal of minimising the need for personal searches.

31. All Australian jurisdictions have regulations that clearly govern the use of, and regime related to, solitary confinement and isolation, including time controls, approval processes, regular review and reporting requirements. All jurisdictions have legislation and/or guidelines that provides that solitary confinement may be used in some places of detention, but only for purposes of protecting the detainee's safety, the safety of another person or the security and good order of a facility. Decisions to place individuals in segregated custody are subject to regular review, monitoring and oversight. Jurisdictions including Victoria and Western Australian do not use solitary confinement in youth justice facilities.

## Juvenile justice

32. This section provides information on juvenile justice which may also relate to elements of the criminal justice system which affect adult detainees.

33. The minimum age of criminal responsibility across almost all Australian jurisdictions is 10 years of age, with the exception of the Northern Territory and the Australian Capital Territory where it is currently 12 years of age. In all jurisdictions there is a rebuttable presumption that a child aged between the minimum age of criminal responsibility and 14 years of age is not criminally responsible. Several jurisdictions are taking steps to raise the minimum age of criminal responsibility further.

34. The minimum age of criminal responsibility continues to be the subject of discussions between Attorneys-General through SCAG. On 1 December 2023, SCAG released the Age of Criminal Responsibility Working Group Report 2023, putting forward a principles-based framework for jurisdictions to consider in raising the minimum age of criminal responsibility.

35. Through the National Agreement on Closing the Gap, the Australian and state and territory governments have committed to addressing the socio-economic drivers of crime and reducing the incarceration rates of First Nations adults and children in the criminal justice system.

36. The Justice Policy Partnership (JPP) brings together representatives from the Coalition of Peaks, Aboriginal and Torres Strait Islander experts, and Australian and state and territory governments to take a joined-up approach to Aboriginal and Torres Strait Islander justice policy.

37. In the October 2022–23 Budget, the Australian Government committed \$99 million to a First Nations justice reform agenda. This included \$81.5 million for justice reinvestment, consisting of \$69 million over four years from 2022–23 to establish a National Justice Reinvestment Program to support up to 30 justice reinvestment initiatives across the country and \$12.5 million to establish an independent National Justice Reinvestment Unit to coordinate and support justice reinvestment initiatives at a national level.

38. In the 2023–24 Budget, the Government committed an additional \$10 million over four years from 2023–24 for the Justice Reinvestment in Central Australia Program. Both justice reinvestment programs opened in September 2023.

39. The Australian Government is currently working with a Justice Reinvestment Working Group to design the National Justice Reinvestment Unit.

40. Through the Indigenous Advancement Strategy, the Australian Government also funds a range of programs that aim to reduce rates of incarceration of First Nations people. These include:

- Adult and youth through-care programs which provide intensive case management to First Nations people to help them transition from prison or detention back into their communities and avoid reoffending;

- Community safety patrols which employ First Nations people to patrol their local communities and offer culturally sensitive assistance and transportation to a safe place for those at risk of harm; and
- Youth support and diversion activities which aim to address the underlying drivers of crime, supporting young First Nations people to engage in education and employment and improving wellbeing.

41. Recognising the need to remove systemic barriers, all governments have committed through the ADS to focus on ensuring people with disability have equal access to justice to support broader work underpinning the Safety, Rights and Justice Outcome Area. The ADS's Safety Targeted Action Plan sets out commitments from all governments to strengthen system design and supports to enable people with disability, including children with disability, to receive high quality and safe services across 2021–22 to 2023–24.

42. The National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment recognise the rights of persons with cognitive or mental health impairment, and seek to identify safeguards throughout legal processes and during the period in which a person who is unfit to plead or not guilty by reason of cognitive or mental health impairment is subject to orders. They are best practice principles to ensure that treatment is tailored, inclusive and recovery oriented, with agencies and service providers collaborating to provide coordinated care. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability's final report recommended ending regimes allowing for the indefinite detention of people with disability. The Australian Government is carefully considering the report.

43. Across jurisdictions, restraints in youth justice settings can generally only be used in limited circumstances when managing risk of harm to self or others or safe operations and order, and as a last resort. Jurisdictions have clear legislation and policies around the use of force as a last resort, provide training including de-escalation techniques, and maintain use of force registers to ensure transparency around the use of force. The majority of jurisdictions have legislation that provides for the use of restraints in youth justice settings in very limited circumstances that are subject to recording requirements, approvals and an appropriate assessment of risk.

44. Most Australian jurisdictions have specific legislation that prohibits the use of confinement for punishment 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.

45. State and territory governments maintain varied programs to divert young people from youth justice systems. Across jurisdictions, the detention of young people is generally a measure of last resort. In 2021–22, there was a total of 4,536 young people under youth justice supervision in Australia on an average day, comprising 82% in the community and 18% in detention. Non-judicial measures include early intervention programs, case management services, youth justice conferencing, police cautions, diversionary courts and non-custodial sanctions.

46. Jurisdictions recognise the importance of maintaining separate places of detention for children and adults, ensuring this separation in the vast majority of circumstances. States and territories generally have legislation that provides the legal framework to ensure that children in remand or custody are detained in youth detention facilities separate to adult correctional facilities. In the circumstance where a child is held in police lockup or in a police watch-house, the child is held separately from adults and the child is brought before a Magistrate or transferred from police custody to a youth detention facility as soon as possible.

47. Safeguards on the rights of persons, including young persons, detained by police are consistent across Australian and state and territory government jurisdictions. These include rights to:

- Silence (except for providing name and address);
- Only being detained for a reasonable amount of time;
- Minors having someone present for interviews;
- Being informed of why they are being arrested; and
- Legal assistance.

48. Young people admitted to youth detention are informed of their rights, including those under international human rights law, and are able to comment on or complain about any matter relating to the conditions of detention. Across jurisdictions, young people have access to numerous avenues to raise complaints about their detention. These avenues include internal complaint mechanisms and independent external entities including official visitors, Ombudsman services, anti-corruption entities and advocacy services.

49. Complaints mechanisms are promoted within places of detention during inductions and on an ongoing basis through the use of material such as posters, pamphlets and free, confidential phone call services. Young people are able to make complaints directly or to a regulatory body such as the Australian Human Rights Commission or the relevant state or territory Ombudsman or, where they exist, Inspectors of Correctional Services or Official Visitors. Material advising of the right to complain is displayed prominently throughout detention facilities at all times and is also available to detainees on request. Each state and territory's ombudsman offices, or other appointed officials, regularly conduct visits and inspections of youth justice facilities, and are able to receive complaints from inmates.

## II. Appendices – Additional information provided to the United Nations Committee against Torture by the Australian Government in response to the Committee's Concluding Observations (CAT/C/AUS/CO/6)

### Appendix I – Conditions of detention

#### Recommendation 32(a) – conditions of detention

50. Continue efforts to improve conditions of detention in all places of deprivation of liberty and alleviate the overcrowding of penitentiary institutions and other detention facilities, including through the application of non-custodial measures. In this regard, the Committee draws the State party's attention to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the Tokyo Rules and the Bangkok Rules.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Australian Capital Territory (ACT)	<p>The <i>Reducing Recidivism by 25% by 2025 Plan</i> has set a target to reduce recidivism in the ACT by 25% by 2025. The plan builds on the ACT's justice reinvestment approach that seeks to prevent repeated contact with the criminal justice system by investing in a range of programs intended to address the causes of offending.</p> <p>The ACT Government is establishing a Law Reform and Sentencing Advisory Council, which will advise the government on areas of potential law reform and provide expert advice on sentencing.</p> <p>On 29 August 2023, the ACT Government announced, via its response to the ACT Legislative Assembly's Justice and Community Safety Committee's Report on the Dangerous Driving Inquiry, that the ACT</p>

Jurisdiction	Measures taken in the last year
	<p>Government would refer the <i>Bail Act 1992</i> (ACT) to the Council for review and advice.</p> <p>The ACT is in early discussions to create or license a bail app that would assist people under bail orders with calendar reminders for court and bail obligations, as well as an easily accessible copy of their bail conditions.</p> <p>The ACT Government is undertaking a review of overrepresentation of First Nations people in the criminal justice system in the ACT. Matters relating to the application of bail laws to First Nations people will also be within the scope of this review.</p> <p>The Galambany Circle Sentencing Court has been expanded to meet the increased demand for sentencing and to establish a specialist bail list. The proposal to introduce a Galambany specialist bail court seeks to address the overrepresentation of Aboriginal and Torres Strait people among remandees.</p> <p><i>Aboriginal and Torres Strait Islander Interview Friends</i> will begin operation by early 2024, to provide independent, culturally appropriate support to Aboriginal and Torres Strait Islander people who have been detained by police for interviewing in relation to an offence.</p> <p><i>Front Up</i> is a support program for Aboriginal and Torres Strait Islander people who have an outstanding warrant or have breached bail or a community-based sentence to assist them to present to Court and negotiate on their behalf to have the matter resolved, where possible, without a period of custody.</p>
New South Wales (NSW)	<p>In NSW the Corrective Services <i>Towards 2030 Strategic Plan</i> has a target to reduce adult reoffending by 8% by 2030 and reduce adult reoffending for Aboriginal and Torres Strait Islander people by 10% by 2030. The measurement will be the rate of return to Corrective Services within two years of release from custody or order commencement. Key elements in Corrective Services' ongoing work to reduce reoffending include increasing access to interventions for higher risk offenders and delivering better programs and continuity of care for people with complex needs including those with a serious mental illness and women in custody who have children.</p>
Northern Territory	<p>The Northern Territory Government has invested in the development of a new Youth Justice Centre in Darwin and a redeveloped centre in Alice Springs, to meet the therapeutic and rehabilitative needs of young people. The new Darwin centre is scheduled for completion in mid-2024 and the redeveloped Alice Springs centre is scheduled for completion by early 2024.</p> <p>New facilities will enable evidence-based, restorative, culturally and age appropriate programs that are aimed at reducing recidivism, while ensuring community safety through secure and fit for purpose design. Both centres include:</p> <ul style="list-style-type: none"> <li>dedicated areas for young person admission, including body scanning technology;</li> <li>dedicated medical suites with dental room and audiology equipment;</li> <li>new learning hub focused on education, training and vocational skills development;</li> <li>central staff and reception areas offering high amenity spaces for Youth Justice and other staff delivering services in Youth Detention;</li> <li>ensuite bedrooms designed to be robust yet normative in look and feel;</li> <li>contemporary, unobtrusive security design utilising best practice technology to ensure safety and security;</li> </ul>



<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	<p>recreational areas including indoor and outdoor activity space; fully equipped teaching kitchens within learning hub areas; and state of the art video conferencing and court facilities including visitor area and children’s play area.</p> <p>The Department is continuing the implementation of the Youth Justice Detention Centre Model of Care which includes a trauma informed operating philosophy and structured service model for the centres.</p> <p>The Northern Territory is working closely with Mission Australia to ensure increased access for Protective Custody persons to utilise the Sobering up Shelter as an alternative to Police Watch Houses.</p> <p>The Northern Territory has established an Alternative to Custody Facility for women in Central Australia and is developing plans for other such facilities.</p> <p>The Northern Territory has also supported bail accommodation programs as an alternative to remand.</p>
Queensland	<p>The Queensland Government has commenced construction of the new Lockyer Valley Correctional Centre (LVCC), which will open in 2024. The LVCC will support end-to-end case management with a health and rehabilitation design and operating model that includes enhanced mental health, drug, and alcohol rehabilitation services.</p> <p>The Queensland Government is building two new therapeutic youth detention centres, one will be located in South-East Queensland and one in Northern Queensland. Both detention centres support the government’s goal to provide more regional youth detention services, facilitating connection to family, community, and country. Both new centres will include therapeutic design elements to support young people’s rehabilitation. These elements include smaller more purposeful accommodation units, consultation and treatment rooms, multipurpose spaces for education, skills development and training and space for cultural connection.</p> <p>Queensland is piloting ‘fast-track sentencing’ to reduce the time spent by children in pre-trial custody.</p> <p>The Queensland Police Service has introduced an <i>Enhanced Disposition and Diversion Framework</i> that includes adult cautioning, adult restorative justice conferencing and drug diversion.</p>
South Australia	<p>The Government of South Australia is currently de-commissioning a youth custodial facility built in 1993 and consolidating youth custodial services onto a single site, built in 2012. Construction is underway to provide additional infrastructure needed to support consolidation, which is incorporating contemporary, therapeutic design principles including through the use of green space and natural materials, recognising the physical and psychological impact of the built-environment.</p> <p>South Australia has invested around \$25 million over four years to deliver a multi-pronged initiative across agencies to support First Nations people and reduce incarceration rates. The suite of measures, which include community support programs, accommodation and support programs, the development of an Aboriginal Justice Agreement and a two-year trial of a specialist court for Aboriginal children and young people, respond directly to recommendations made by the Advisory Commission into the Incarceration Rates of Aboriginal Peoples in South Australia.</p>
Tasmania	<p>The Tasmanian Government has committed to a therapeutic model for custodial youth justice, which will see the closure of Ashley Youth</p>

Jurisdiction	Measures taken in the last year
	<p>Detention Centre and building of a new, fit for purpose, custodial youth justice facility.</p> <p>New correctional infrastructure in Tasmania ensures that adequate space is available for prisoners and remandees. This includes the recently opened, 156 bed Southern Remand Centre and upcoming projects including a new 50-bed maximum unit and a new Northern Correctional Facility that will accommodate up to 270 prisoners. Tasmania has remained at approximately 85 per cent capacity in prisons, ensuring that adequate space is available for all prisoners and remandees.</p> <p>Tasmania is expanding its non-custodial penalties, including expanding the Court Mandated Drug Diversion Program to include alcohol treatment, as well as making the program available to offenders charged with more serious crimes.</p> <p>Tasmania has also been utilising home detention and electronic monitoring for eligible offenders.</p>
Victoria	<p>Legislative amendments to the <i>Bail Act 1977</i> received Royal Assent in October 2023, which aim to make the state's bail laws fairer for vulnerable and disadvantaged people, while continuing to take a tough approach to those who pose a serious risk to Victorians. The new Act, which will come into force in March 2024, will aim to reduce unnecessary remand for people accused of low-level offending.</p> <p>The Victorian youth justice system is undergoing reconfiguration, with the opening of the new Cherry Creek precinct offering accommodation in small group units of four young men aged 15 to 17 years old in shared neighbourhoods. Individuals can age to be over 18 while at Cherry Creek and remain at the precinct. The precinct provides shared neighbourhoods, and internally delivered rehabilitation services, including multidisciplinary interventions and support with a focus on positive behaviour change. With the closure of the Malmsbury Precinct, the Parkville site now caters to the dual track male cohort, as a genuine alternative to adult custody. This acknowledges that young adults are still developing and have good prospects of rehabilitation, and that adult prison may not be the most suitable environment to maximise those prospects.</p> <p>Cherry Creek enables full implementation of Victoria's 'Communities in Custody' operating model, which sees young people accommodated in the least restrictive and most therapeutically aligned placement, to enable targeting their risks, needs and vulnerabilities. Within this model, positive behaviour is incentivised through increased autonomy and enhanced activity offerings as young people graduate through the three community levels.</p> <p>The 2022–23 State Budget provided funding to the Youth Justice Bail After Hours Service and a Weekend Online Remand Children's Court, to help ensure young people are not remanded unnecessarily.</p> <p>In Victoria's adult custodial corrections system, network configuration is ongoing. Demand for prison beds has been lower than projected since the COVID-19 pandemic, which has presented an opportunity for new infrastructure to replace ageing infrastructure to improve prisoner outcomes. This includes new accommodation in the women's prisons system designed in line with trauma-informed practice principles.</p> <p>Work is underway to plan for improvements to the infrastructure of secure forensic disability services in Victoria. This includes consideration of improvements that could lead to a reduction of people with disability in custody due to increased capacity in forensic disability secure services.</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	<p>The Victorian Government is working with the Aboriginal Justice Caucus to implement actions in the <i>Aboriginal Justice Agreement</i> (which aims to improve Aboriginal justice outcomes) and to identify reform opportunities to address Aboriginal overrepresentation in custody. Work to date has focused on rehabilitation and reintegration, including pre-and post-release cultural supports, education programs, transitional housing and developing a healing unit for Aboriginal women.</p> <p>Causes of and measures for reducing Aboriginal overrepresentation in custody have also been explored by the Victorian Yoorrook Justice Commission in its most recent Report into Victoria's Child Protection and Criminal Justice Systems.</p>
Western Australia	<p>The Government of Western Australia is investing over \$100m towards improving services for youth in detention. This includes new infrastructure, additional staff and more support services.</p> <p>In Western Australia, a new operating philosophy and service model for youth custody has been developed, which is founded on world best practice in youth justice, focusing on rehabilitation and reducing reoffending through a trauma-informed, therapeutic approach.</p> <p>An infrastructure review to determine the state's youth custodial needs and assess the requirement for additional facilities is a recent measure to improve juvenile justice.</p>

### **Recommendation 32(b) – lack of recreational and educational activities**

51. Urgently adopt practical measures to remedy the lack of recreational and educational activities to foster rehabilitation of detainees.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
New South Wales (NSW)	<p>Corrective Services NSW is committed to delivering a prison environment that enables rehabilitation and supplements program delivery. Roles, responsibilities and staff culture in custodial settings are geared towards rehabilitation, desistance, and progression through a sentence.</p> <p>Prison staff have been, and are being, trained in Five Minute Interventions (FMI) to enable them to motivate inmates towards rehabilitation and to turn everyday conversations into rehabilitative opportunities.</p> <p>By transforming prisoner rehabilitation through digital technology, Corrective Services NSW aims to increase intervention opportunity and dosage through digitisation of services and programs, as well as providing them in a way that engages the inmate and allows them to take greater responsibility.</p> <p>By the end of December 2023, there were 27 publicly managed and 2 privately operated correctional centres with in-cell technology. This level of expansion has been made possible by an allocation from the NSW Government Digital Restart Fund. In addition, there are 1,200 offender devices available at Clarence Correctional Centre, which were funded by the operator of that centre.</p> <p>An important feature of the new technology is the capacity to maintain contact with family and friends during lock in times, legal contacts, and approved services, via the offender tablets.</p> <p>Further, there are an additional 800 Internet Protocol Televisions available at the rapid build centres, Macquarie and Hunter.</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Northern Territory	<p>Northern Territory Correctional Services continues to invest in programs, education and employment to improve re-integration potential and minimise the risk of adult re-offending.</p> <p>New Youth Detention centre facilities will include new learning hubs focused on education, training and vocational skills development.</p>
Victoria	<p>In Victoria, a project was undertaken from April until July 2023 exploring vocational opportunities for residents in forensic disability secure services and funding has been sourced to establish a commercial kitchen within the facility to promote education and training.</p> <p>Investing in education, training, and developing employment pathways within the Victorian adult custodial corrections system gives prisoners the skills they need to gain and maintain employment upon release.</p> <p>All people in prison are encouraged to participate in Vocational Education and Training programs. As at 30 June 2023, 31% of eligible Victorian prisoners were participating in education and training.</p> <p>Rehabilitation services in the Victorian prison system include drug and alcohol programs; specialised mental health services; family violence and offending behaviour change programs; cultural programs, family engagement and parenting programs; pre- and post-release transition services; and case management to connect prisoners with activities to reduce reoffending. Transition and reintegration programs, including employment, housing and some drug and alcohol programs, are available to remand and sentenced prisoners alike, and are based on an assessment of reintegration needs. All prisons employ recreation officers to support prisoner’s structured day activities.</p> <p>Victorian Youth Justice continues to provide educational and recreational activities for children and young people through a fully structured day. The structured day comprises a mixture of visits, offence specific programs and treatment, court appearances, case management activity, interactions with various primary and mental health professionals, recreation programs and a timetable offering up to 6 hours of education.</p>
Western Australia	<p>A new cohort of Aboriginal mentors will improve juvenile justice to assist detainees and staff. This includes additional supports through the newly established Aboriginal Services Unit who organise culturally safe initiatives for youth detainees, in collaboration with Aboriginal people, and Aboriginal Community Controlled Organisations. Other measures include education classes, young people are provided with special music and sport programs, as well as vocational course such as barista skills, carpentry, painting and plumbing, emergency services courses, Australian Army cadet instruction and Aboriginal language learning.</p>

**Recommendation 32(c) – medical services**

52. Improve the provision of gender- and age-specific medical services to all persons deprived of their liberty, particularly those with intellectual or psychosocial disabilities.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Australian Capital Territory (ACT)	<p>As part of its commitment to adequate health care in correctional facilities, the ACT Government launched the <i>ACT Detainee Health and Wellbeing Strategy</i> in August 2023.</p> <p>Current admission and induction policies are being updated and more comprehensive policy and procedures reflecting changes being</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	introduced under the Integrated Offender Management Framework will be released.
New South Wales (NSW)	<p>NSW has two new Foetal Alcohol Spectrum Disorder (FASD) services for young people: priority FASD diagnostic assessment services to young people involved in Youth Koori Court; and a referral service for young people outside the metropolitan area of NSW suspected of having FASD, and for youth at risk more generally.</p> <p>A pilot for a gender specific assessment tool has commenced for female sex offenders, which better identifies their needs around sexual offence perpetration, allowing the development of more gender specific treatment plans.</p>
Northern Territory (NT)	<p>The Northern Territory Government has introduced a new Nurse Practitioner for Chronic Disease and appointed two Aboriginal Health Practitioners for adult clients.</p> <p>A Co-Response Mental Health Team has also been established to increase direct access for Mental Health assessment within the Police Watch House and the community. The Co-Response is a joint approach between Police, St John Ambulance and NT Health providing support and interventions for people of all ages and backgrounds.</p> <p>The Northern Territory is exploring options for Commonwealth Funding for a Disability Pilot Program to increase National Disability Insurance Scheme supports within the prison setting.</p>
Queensland	The Queensland Government is developing a whole-of-government strategy for women and girls in the criminal justice system as accused persons and offenders, which will incorporate a public health approach.
South Australia (SA)	<p>The Government of South Australia will open a new 12-bed accommodation unit as an Enhanced Support Unit, with a service model that aims to improve responses to children and young people with more complex needs, including disability-related needs.</p> <p>The Department of Human Services (DHS) Youth Justice Therapeutic Services (YJTS) provide specialist assessment, individualised supports and referrals for children and young people with disability and complex, disability-related needs. Clinicians work closely with agency partners including SA Health and Child and the Adolescent Mental Health Service. In 2022–23, DHS funded the Enhanced Support Team within YJTS for ongoing service delivery at Kurlana Tapa Youth Justice Centre to better respond to young people with complex disability and mental health needs.</p>
Victoria	<p>Work is underway to progress improvements to the infrastructure of secure forensic disability services in Victoria.</p> <p>The new Cherry Creek precinct incorporates an Intensive Intervention Community to provide targeted intervention and support for young people presenting with high-risk behaviours in custody, as well as a specialist mental health unit to provide a therapeutic space for more intensive voluntary assessment, treatment and support for young people experiencing non-acute mental health concerns.</p> <p>New healthcare providers have been or are being transitioned into Victoria’s Youth Justice Precincts, including a public healthcare provider delivering at Cherry Creek precinct, and a not-for-profit community healthcare provider commencing delivery at Parkville Youth Justice Precinct in 2024.</p> <p>Significant service uplifts have been introduced to Custodial Forensic Youth Mental Health Service (Custodial FYMHS) including additional</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	<p>psychiatry and mental health clinical capacity, a new team specialising in alcohol and other drugs treatment including addiction and dual diagnosis, and a significantly expanded neurodevelopmental team with new speech therapist roles and more neuropsychology capacity.</p> <p>For adult prisons, Victoria has introduced a new service delivery model based on the new <i>Healthcare Services Quality Framework for Victorian Prisons 2023</i>. The new model includes increased expectations and enhanced service quality for people in custody, including priority groups such as Aboriginal and Torres Strait Islander people, older people, people with disabilities and women in custody.</p> <p>Service uplifts include an Aboriginal health workforce to support culturally responsive care, an expanded multidisciplinary team, Aboriginal health checks, and a greater focus on improving health outcomes and continuity of care, particularly for groups experiencing trauma or vulnerability (including Aboriginal people and LGBTIQ+ people).</p> <p>Further, new healthcare providers have been brought in throughout the public prison system. These new providers commenced on 1 July 2023 and are all bound to deliver services under the new enhanced Quality Framework. In the men’s system, a private company is providing primary healthcare. In the women’s system, public healthcare providers are delivering primary health services in the women’s prisons, leveraging connections with community and specialist providers.</p>
Western Australia	<p>As part of an over \$100 million investment towards improving services for youth in detention: a new Crisis Care Unit will provide dedicated support for detainees experiencing mental health crises; new Aboriginal Services Unit has been established; and a new allied health team from the Western Australian Department of Health is providing specialist neuropsychology and paediatric support.</p> <p>Specialised medical services are planned to be delivered through a new Aboriginal health provider and the Telethon Kids Institute to provide expertise on the assessment and management of children and young people with a neurological impairment.</p>

**Recommendation 32(d) – number of trained and qualified prison staff**

53. Increase the number of trained and qualified prison staff, including medical staff, and strengthen the monitoring and management of inter-prisoner violence.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Australian Capital Territory (ACT)	ACT Corrective Services has secured funding of \$29.1m between the 2022–2024 Financial Years for various initiatives, including additional Custodial Officers (COs), additional CO training, increased Personal Protective Equipment for COs, additional incident response equipment, and specialist training for COs.
New South Wales (NSW)	<p>Youth Justice NSW has completed the review of its current <i>Detainee Risk Management Plan</i>, to be replaced with a new <i>Behaviour Assistance Pathway</i>.</p> <p>A number of policies to increase staffing levels relating to juvenile justice have been implemented in recent years, including new Clinical Manager roles to oversee frontline psychological service delivery, and new Incident Response Teams and Aboriginal Practice Officers within Youth Justice Centres.</p>

Jurisdiction	Measures taken in the last year
	<p>Corrective Services NSW undertook the Project 800 recruitment drive to recruit the next generation of correctional officers and improve vacancy management. The project started in February 2022 with the aim to recruit 800 permanent correctional officers. Offers of employment and training continued throughout 2023 and targeted recruitment campaigns were undertaken, with an increased use of social media to target specific locations around the State, females, and Aboriginal candidates.</p> <p>To determine candidate suitability, applicants were put through an extensive testing and screening process including; psychometric testing to determine such things as resilience and ability to follow processes, police checks, medicals, interviews, working rights, and reference checks.</p>
South Australia	<p>The Government of South Australia is investing in workforce strategies to build the custodial workforce and staffing capability at the Kurlana Tapa Youth Justice Centre. Recent recruitment has been the highest and most consistent ever at Kurlana Tapa and enhancements to training and staff wellbeing practices remains a key focus.</p> <p>A review of the accredited training provided to all operational staff at Kurlana Tapa is currently underway. This provides an opportunity to ensure training is contemporary and supports staff to work effectively with vulnerable children and young people with complex trauma, mental health needs and requirements for cultural safety.</p> <p>In relation to adult prison's, workforce planning is a continued focus for the Department for Correctional Services (DCS).</p> <p>DCS has established a Learning Academy as a Centre of Excellence for all staff training provision. The Learning Academy maintains the core goal of establishing, equipping and sustaining high performing teams and staff through high quality training and development opportunities, including consideration of national and international best practice.</p> <p>Increasing recruitment is also a focus for DCS. By the end of December 2023, over 250 new Trainee Correctional Officers commenced on roster at prisons across the State.</p> <p>Prison safety and reducing prisoner violence is absolutely paramount, and a key feature of the Department's strategic plan is the <i>Safe At Work</i> agenda. Staff safety culture is departmental wide and brings focus to physical, psychological, emotional and cultural safety, as well as to positive mental health and wellbeing. In November 2023, DCS held its inaugural <i>Safe at Work</i> forum.</p>
Tasmania	<p>Tasmania is actively recruiting to fill medical vacancies within Tasmanian prisons and locum services are being utilised in the interim.</p> <p>Tasmania is continuing to attract more Correctional Officers into the Tasmania Prison Service, as part of an ongoing recruitment drive to ensure the safety of staff, inmates and the community.</p> <p>The Tasmania Prison Service was recently involved in operation Morpheus, which is run Australia wide by Police and targets gang activity inside and outside of the prison; with a primary focus on outlaw motor cycle gangs.</p> <p>Tasmania introduced a new control and restraint package that focusses on communication and de-escalation, supporting the broader approach where force is only ever used as the last resort.</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Queensland	<p>Recruitment of new youth detention centre staff is continuing and by the end of 2023 almost 200 new frontline staff have been recruited, with an estimated additional 250 in 2024.</p> <p>There is an additional \$87.916 million over four years to deliver primary healthcare services to prisoners, mental health, and oral health services for the new correctional centre at Gatton, and for the provision of personal care for prisoners.</p> <p>The Queensland Police Service has introduced a 3-day cultural capability training package for police recruits. The package includes cultural capability training in relation to Multicultural Australia and First Nations Peoples.</p>
Victoria	<p>Victoria has implemented several ongoing measures to address the risk of violence in prison, including training for staff, ongoing analysis of risks and intelligence, and exercising care in the assessment and placement of prisoners.</p> <p>Victoria is currently working on reforms that will aim to reduce violence and improve safety at prisons; increase collaboration and strengthen alignment with best practice standards; and enhance governance to allow for continuous improvement.</p> <p>Corrections Victoria is continuing to recruit new prison staff. A recently introduced rolling recruitment model has significantly reduced the time taken to complete the recruitment process, and has addressed the high withdrawal rate precipitated by increased competition for frontline talent. This new model has seen an increase in recruitment numbers.</p> <p>A roster review has occurred to ensure more effective staffing levels at appropriate times within Forensic Disability Services and a number of initiatives are in place to support adequate staffing levels in prisons in what is currently a challenging labour market.</p> <p>The change of primary health providers across the youth and adult custodial systems has included an increase in staffing expertise and learning and development requirements and resources for health staff. Under agreements for primary health care, providers are required to report annually on the learning, development, training and accreditation of health staff. Victoria is continuously reviewing learning and development requirements for health staff to ensure this aligns with clinical best practice and risks to be managed in custodial health care.</p> <p>Aboriginal and Torres Strait Islander peoples’ social, emotional, health and wellbeing needs are now supported by a workforce of Aboriginal Health Practitioners and Health Liaison Workers. The Aboriginal Health Workforce promotes a culturally safe healthcare experience through the provision of Aboriginal Health Checks, by advocating for patients and facilitating access to health services, developing interpersonal relationships as well as providing health education to patients.</p>
Western Australia	<p>An additional 13 Foundation Training programs were included in 2023 for the Department of Justice, Corrective Services Academy. This increase adds another 250 prison officers, 96 Youth Custodial Officers, 64 Adult Community Corrections Officers, 28 Youth Justice Officers, and 47 Vocational Support Officers from metropolitan and regional locations across the State into operations.</p> <p>The volume of new recruits being trained is scheduled to continue through to the end of 2024.</p>



<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	The Government of Western Australia is establishing new staff positions which include more Aboriginal support officers and Aboriginal medical and mental health workers, and has made a significant \$100 million investment in infrastructure, services and staff to support the new model of care.

### **Recommendation 32(e) – means of restraint**

54. Ensure that means of restraint are used only as a last resort to prevent the risk of harm to the individual or others and only when all other reasonable options would fail to satisfactorily contain the risk.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Australian Capital Territory (ACT)	The ACT Government is progressing a legislative amendment to ensure the use of spit hoods in mental health treatment care and support is not allowable. The amendment will specify that spit hoods are not considered a minimum or reasonable method of restraint for any purpose under the <i>Mental Health Act 2015 (ACT)</i> . This will promote the delivery of patient care in a way that is least restrictive and intrusive for the person, and in accordance with the objects and principles of the Act.
New South Wales (NSW)	In NSW, spit hoods are not used in any place of detention. The NSW Government has recently passed legislation prohibiting the use of spit hoods in places of detention (the <i>Detention Legislation Amendment (Prohibition on Spit Hoods) Act 2024</i> ).
Northern Territory	<p>The Northern Territory Police Force (NTPF) has ceased the use of spit hoods on youths in custody and the use of spit hoods on adults is also limited to be within NTPF custodial facilities only.</p> <p>Corrections use spit hoods on adults if it is justified by the need to restrain and prevent a prisoner from engaging in misconduct or causing harm to others. The use of spit hoods in adult correctional facilities is done in accordance with relevant policies, manuals and guidelines.</p> <p>The Northern Territory will be reviewing its procurement strategy around escort vehicles, together with directives around the use of restraints during escort, and will be informed by the secure arrangements that can be provided during transportation.</p>
Queensland	<p>In Queensland, spit hoods are not used in any Queensland Youth Detention Centre, Queensland Police Service watchhouse, or authorised mental health service.</p> <p>On 18 April 2023, the Queensland Police Service Commissioner directed the use of Lateral Vascular Neck Restraint is no longer part of the situational use of force model.</p> <p>Queensland Corrective Services has commenced an operational review to examine the current systems governing the use of safety hoods for adult prisoners in Queensland.</p>
South Australia	The use of spit hoods in South Australian detention settings, including Kurlana Tapa Youth Justice Centre, was banned effective from 25 November 2021 by the <i>Statutes Amendment (Spit Hood Prohibition) Act 2021 (SA)</i> .
Tasmania	In Tasmania, spit hoods are not used on young people in any custodial setting. Tasmania is moving to a complete ban on the use of spit hood in adult correctional facilities under statutory standing orders power pursuant to s 34H of the <i>Corrections Act 1997 (Tas)</i> . New procedures and alternative risk control measures are being introduced through the

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	use of personal protective equipment, with trials being currently undertaken.
Victoria	<p>The use of spit hoods is prohibited in the Victorian Youth Justice system.</p> <p>Victoria has made legislative amendments to include protections to individuals in forensic residential services who may be subject to restrictive practices, incorporating strengthened safeguards to reduce the use of restrictive practices as supported by the Victorian Senior Practitioner.</p> <p>In Victorian adult custodial settings, instruments of restraint may only be applied where there is a belief on reasonable grounds that it is necessary, and they are to be used in a timely and appropriate manner for the minimum time necessary.</p> <p>In February 2023, Corrections Victoria prohibited the use of anti-spit masks on persons under the age of 18 in adult custody. Anti-spit masks remain an authorised form of restraint for adults in custody as a last resort to protect staff and others where use of Personal Protective Equipment (PPE) is not feasible. Further amendments to the policy were made in respect to the application of handcuffs on certain cohorts of prisoners, requiring risk assessment and consideration of special needs.</p> <p>In Victorian Youth Justice, Operational Safety policies and training provide staff with safe, lower-level responses to challenging behaviour including de-escalation, redirection, and engagement. The model promotes situational awareness and risk assessment processes to prevent or manage emerging risks, and to promote effective communication to understand and respond to young people’s behaviour. Under the <i>Children Youth and Families Act 2005</i> reasonable force including restraint may only be used as a last resort when all other less intrusive methods have been considered and the young person is at risk of harm to themselves others or the security of the precinct.</p>

**Recommendation 32(f) – strip-searching**

55. Ensure that strip-searches of persons deprived of their liberty are not performed routinely and are conducted in private and in a manner that respects the inmate’s dignity by appropriately trained staff members of the same sex as the inmate. Search and admission procedures for visitors should not be degrading and should be subject, at a minimum, to the same rules as those applied to inmates.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
New South Wales	The NSW Government provided \$15.2 million over four years from FY2020/21 to 2023/24 to install full body x-ray scanners in correctional centres across the state, as part of ongoing work to stop drugs and other contraband being introduced into correctional centres and reduce the need for strip-searching.
Northern Territory	Northern Territory Corrective Services is currently reviewing strip search methodology and the feasibility of x-ray technology to minimise the potential impacts upon adult prisons, with an expected completion by 2024.
Queensland	Queensland has made legislative amendments to support the use of x-ray body scanners to conduct searches as an alternative to removal of clothing searches.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	<p>Queensland Youth Justice is currently exploring x-ray body scanner technology in Youth Detention Centres to further reduce reliance on personal searches.</p> <p>The first trial of x-ray body scanners at adult corrective services facilities in Queensland is planned to commence in 2024 at Brisbane Women's Correctional Centre.</p> <p>Queensland Corrective Services is considering Queensland Human Rights Commissioner recommendations on how to improve practices following a review of its removal of clothing practice and procedures for women.</p>
Tasmania	<p>Legislation commenced consolidating legislative provisions for searches of youths in custodial facilities in response to recommendations made to the Tasmanian Government by the Commissioner for Children and Young People including a principles-based framework governing the conduct of searches, the establishment of a search register, and ensuring relevant information on searches is available to youths, their advocates and the public.</p> <p>The Tasmania Prison Service is currently in the process of installing body scanners across facilities, which will reduce the need for personal searches.</p> <p>The Department of Police, Fire and Emergency Management is currently reviewing its policies and procedures relating to searching of persons.</p>
Victoria	<p>Victorian Youth Justice has ceased routine or systematic use of unclothed searches and body scanning technology is in place at all Victorian Youth Justice precincts.</p> <p>In Victorian adult settings, a number of reforms have been introduced in recent years to reduce strip searching including the installation of non-invasive body scanning technology in prison gatehouses and visits centres, policy changes to reduce searching during inter-prison transfers in the women's system, the introduction of saliva testing (removing the requirement for strip searching prior to urinalysis except where there is a history of sample adulteration) and the introduction of an x-ray scanner for reception into the women's system. These reforms have resulted in a substantial reduction in the use of strip searching, particularly in the women's prison system.</p> <p>Corrections Victoria is exploring further investment in technology to ensure that where routine searching is required, body scanners are available and strip searching is minimised where possible.</p> <p>Trials at minimum-security prisons are being conducted to help transition away from routine strip searches and move instead towards a risk-based approach, whereby permission to conduct such searches is sought based on intelligence or security risk.</p>

## Appendix II – Juvenile justice

### Recommendation 38(a) – minimum age of criminal responsibility

56. Raise the minimum age of criminal responsibility (MACR), in accordance with international standards.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Australian Capital Territory (ACT)	On 22 November 2023, the <i>Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023</i> (ACT) commenced. The Act increases the MACR in a staged approach, initially to 12 years of age from commencement (which occurred on 22 November 2023), and then to 14 years of age by 1 July 2025, with exceptions for children aged 12 and over for murder, intentionally inflicting grievous bodily harm, sexual assault in the first degree, and act of indecency in the first degree.
Northern Territory	On 1 August 2023, the <i>Criminal Code Amendment (Age of Criminal Responsibility) Act 2022</i> (NT) commenced, raising the MACR from 10 to 12 years of age in the Northern Territory. The Northern Territory Government has committed to review the legislation in two years.
Tasmania	On 6 December 2023, the Tasmanian Government committed to raising the MACR from 10 to 14 years of age by July 2029, and raising the age of detention to 16 years of age.
Victoria	On 25 April 2023, the Victorian Government announced that it would raise the MACR to 12 years of age without exceptions and then raise it to 14 years of age by 2027, with exceptions for certain serious crimes for 12 and 13-year-olds, subject to the design and implementation of an alternative service model.

### **Recommendation 38(b) – detention of indigenous children and children with disability**

57. Take all necessary measures to reduce the incarceration rate of indigenous children and ensure that children with disabilities are not detained indefinitely without conviction and that their detention undergoes regular judicial review.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
New South Wales	<p>Youth Justice NSW has introduced the <i>Behaviour Assistance Pathway</i> (Pathway) as an individualised support tool to be used to support high risk behaviours. The Pathway is young-person centred and includes their feedback, so that individual considerations are taken into account such as, if the young person has a disability. The young person's psychologist must be consulted during the development of the Pathway.</p> <p>The Pathway also requires consultation with an Aboriginal Practice Officer if the young person is Aboriginal or Torres Strait Islander. Aboriginal Practice Officers must have access to the Pathway to view and provide any cultural considerations or enhancements.</p> <p>The Youth Justice Aboriginal Strategic Advisory Committee has led the development and implementation of the Aboriginal Practice Mandate, which provides greater clarity on cultural programs and responses for young Aboriginal people.</p> <p>Youth Justice is working closely with Department of Communities and Justice and the Aboriginal Legal Service (ALS) to coordinate a multi-agency program of work under Closing the Gap Target 11 with the intent of permanently addressing the issue of overrepresentation. A work plan has been developed and a number of targeted, placed based projects are being implemented in 2023 in line with Closing the Gap priority reforms.</p> <p>Youth Justice is leading on the Short-Term Remand Program operating in the Surry Hills Children's Court, and Local Court operating as a Children's Court in Wagga Wagga, to test both models with a view to state-wide expansion.</p>

Jurisdiction	Measures taken in the last year
	<p>The Aboriginal Legal Service-led Bail Advocacy Program operates with young people in three pilot locations with a view to using that initiative to develop options for state-wide bail advocacy for Aboriginal young people.</p> <p>A third Youth Koori Court (YKC) was established at Dubbo on 24 March 2023, following the success of the YKC pilot in Parramatta and Surry Hills. The YKC is a modified process within the usual Children’s Court process. It has the same powers as the Children’s Court, but uses a different process to better involve Aboriginal and Torres Strait Islander young people, their families and the broader Aboriginal and Torres Strait Islander community in the court process. With the assistance of elders and other respected people from Aboriginal or Torres Strait Islander communities, the YKC seeks to identify risk factors, such as homelessness, disengagement from education, drug and alcohol issues or other health issues, that may be impacting on the young person’s involvement with the criminal justice system. An Action and Support Plan is then developed with the young person to help them to address these risk factors and improve connections with their culture and their community.</p> <p>The <i>Youth Justice Disability Action Plan 2021–2024</i> is being implemented. This plan delivers 38 actions over three years, designed to improve identification and diagnosis of young people with disability in the justice system, to reduce recidivism through establishing or enhancing disability supports.</p>
Queensland	<p>The Queensland Police Service (QPS) has established Respected Persons Youth Cautioning trials in Townsville and Inala, which co-deliver youth cautions to support the Queensland Government’s commitment under the <i>National Agreement on Closing the Gap</i> (Closing the Gap) to reduce the overrepresentation of Aboriginal and Torres Strait Islander young people in detention.</p> <p>The Queensland Government is developing a whole-of-government and community strategy to address the overrepresentation of Aboriginal and Torres Strait Islander peoples, including children, in the criminal justice system. This strategy will significantly contribute to achieving the Queensland Government’s commitment under Closing the Gap to reduce incarceration rates of Aboriginal and Torres Strait Islander young people by 30% by 2031.</p> <p>The Queensland Government is supporting several co-designed Social Reinvestment programs enabling the delivery of culturally safe approaches to reducing youth offending and ultimately, the incarceration rate of First Nations children, as a key priority under Closing the Gap.</p> <p>The Northern Peninsula Area Regional Council Youth Hub Project is an initiative which facilitates programs for young people including counselling and family support to reduce youth crime in Bamaga.</p> <p>The Tagai State College Project is an initiative to support outcomes including increasing school attendance, reading and numeracy outcomes (NAPLAN), reducing youth crime, and increasing apprenticeships and traineeships.</p> <p>Kowanyama Community Night Patrol Program is an initiative where Night Patrol Officers proactively engage with young people through conversation and refreshments to prevent crime and minimise harm.</p>
South Australia	<p>The Government of South Australia is investing \$737,000 over two years to develop an Aboriginal Justice Agreement, a formal undertaking between government and Aboriginal communities to</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	<p>develop and implement a collaborative approach to improve justice outcomes.</p> <p>The South Australian Department of Human Services is also working to meaningfully embed the Aboriginal and Torres Strait Islander Youth Justice Principle contained in the <i>Youth Justice Administration Act 2016</i> (SA) into all areas of service delivery. This includes strengthening culturally safe practice through the development of an Aboriginal Practice Framework.</p> <p>A specialist therapeutic court program for Aboriginal children and young people was launched in South Australia in August 2023. The Youth Aboriginal Community Court Adelaide is a culturally responsive program aiming to minimise young people’s interactions with the youth justice system through intervention and support. The program, which involves Aboriginal Elders and Respected Persons in the court process, is being trialled for two years in the Adelaide Youth Court. Participating young people have their sentence delayed while support is given to address issues that contribute to their offending and implement protective factors.</p>
Tasmania	<p>The Tasmanian Government is actively establishing a partnership with the Peak body under the Coalition of Peaks and is continuing to strengthen relationships with Aboriginal Community Controlled Organisations.</p> <p>Tasmania will shortly introduce legislation requiring a Magistrate to authorise the transfer of a young person from youth detention to an adult correctional facility. Currently, a Memorandum of Understanding between adult corrections and youth detention exists to enable transfers of young people, in limited circumstances. The Department of Justice is also expecting the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings to make recommendations relevant to this area.</p> <p>Management at the Ashley Youth Detention Centre (AYDC) has recently engaged with the Circular Head Aboriginal Corporation with a view to organising monthly cultural days at AYDC, as an initiative to better support indigenous residents.</p>
Victoria	<p>Victoria has one of the lowest rates of 10 to 17-year-old Aboriginal children and young people under Youth Justice supervision in Australia. This contributes towards Victoria’s greater commitment identified within Wirikara Kulpa (Victoria’s first Aboriginal Youth Justice Strategy) to see no Aboriginal children and young people in the youth justice system.</p> <p>In collaboration with Aboriginal communities, Victoria is developing the Youth Social and Emotional Wellbeing Strategy. The Strategy will apply across community and custodial Youth Justice Services. The aim of the Strategy is to improve health, mental health, social and emotional wellbeing outcomes for Aboriginal children and young people in contact with the justice system and reduce further contact. The Strategy is due to be finalised in 2024.</p> <p>Specialist Disability Advisors work to reduce incarceration of children and young people with disabilities by ensuring reasonable adjustments are made whilst they remain in custody, along with post-release planning and supports. Custodial health services, including neuropsychologists, speech pathologists and psychiatrists, support this work by providing evidence around diagnosis and level of support needs.</p>
Western Australia	<p>The Government of Western Australia will undertake a comprehensive legislative review, which will consider the overrepresentation of young</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	<p>Aboriginal people in detention and the impacts of cognitive disabilities such as Foetal Alcohol Spectrum Disorder on young offenders.</p> <p>The <i>Criminal Law (Mental Impairment) Act 2023</i> (WA) will repeal and replace the <i>Criminal Law (Mentally Impaired Accused) Act 1996</i> (WA) and introduce a contemporary framework for the management of persons with mental impairment in the justice system, including those who have been found unfit to stand trial and those who have been acquitted of an offence on account of mental impairment. The new Act provides that custody orders must be of a fixed duration with a limiting term set, aligned to the best estimate of the term the court would have imposed if they were sentencing the person for the offence.</p>

### **Recommendation 38(c) – use of force**

58. Explicitly prohibit force, including physical restraints, as a means of coercion or disciplining children under supervision, promptly investigate all cases of abuse and ill-treatment of children in detention and adequately sanction the perpetrators.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
New South Wales (NSW)	<p>The Use of Force Review Committee was created to implement an additional layer of governance in the review of Use of Force (UoF) incidents across youth justice, ensuring adherence to policy and procedures, and to improve consistency, transparency, and continuous improvement in operational practices.</p> <p>Youth Justice NSW introduced the Encouraging Positive Improvement Change (EPIC) Scheme in a third detention centre in November 2023 following a review of the Incentives Scheme. The EPIC Scheme encourages and rewards positive behaviour, and the achievement of meeting individualised goals for young people in a Youth Justice Centre. The EPIC Scheme is designed to positively reinforce and encourage improvements in young people’s behaviour and must not be used as a form of punishment.</p>
Queensland	<p>Queensland Youth Justice continues to explore and adopt safer and less restrictive practices to manage safety and security risks in youth detention centres.</p>
Tasmania	<p>As part of the extensive policy evaluation under the Keeping Kids Safe plan, operational policies for restrictive practices and isolation in places of youth detention are under review. The Department for Education, Children and Young People (DECYP) also aims to decrease the prevalence of situations requiring these practices through targeted staff recruitment, support and training.</p> <p>Under the Youth Justice Blueprint, DECYP will lead the development of a therapeutic youth justice model for care. A broad objective of the model will be to ensure maximum collaboration between agencies and service providers to divert young people away from the youth justice system.</p> <p>Work will soon begin on the development of a Youth Justice diversionary framework which will inform the development and sourcing of diversion programs in the youth justice system. Community Youth Justice continues to support young people who are diverted to community conferences by Police or the courts.</p> <p>In Tasmania, detained youth are separated from adult offenders to the greatest extent possible. However, in occasional cases, a young person may be detained at an adult facility for as short a time as possible, as a last resort.</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Victoria	<p>DECYP is undertaking priority work to develop an intensive case coordination approach for young people in the youth justice system, focusing on those on remand.</p> <p>Victorian Youth Justice staff are supported by a Safety and Emergency Response Team with two discreet levels; one focused on engagement with young people with a formal ‘on the ground’ presence alongside unit staff to respond to incidents and support de-escalation; and the other a dedicated response team to manage and respond to escalated incidents and are trained and approved to carry oleoresin capsicum (OC) Spray. OC spray must only be deployed during violent or potentially violent physical incidents, where staff believe alternative options would be ineffective or expose staff or young people to risk of serious injury or death.</p> <p>All use of force is recorded in a dedicated register, reviewed daily and reported to the Commission for Children and Young People on a daily basis.</p> <p>Use of mechanical restraint (handcuffs) on children and young people in Victorian Youth Justice must be based on a risk assessment prior to use. Routine use of mechanical restraint is prohibited. They must only be applied when there are no other means of resolving a situation or mitigating the threat or risks presenting staff and must be applied for the shortest period possible. Young people must never be left alone when mechanically restrained and must be under constant supervision. Every use of mechanical restraint is recorded and reported daily including to the Commission for Children and Young People.</p> <p>Young people in Victorian Youth Justice custody have a set of minimum rights and responsibilities detailed in the Children, Youth and Families Act 2005 requiring care and rehabilitation that is responsive to the individual developmental needs of children and young people. Additionally, the Victorian Charter of Human Rights and Responsibilities Act 2006 and the Australian Children’s Commissioners and Guardians model charter of rights for children and young people detained in youth justice facilities (2014) outline basic entitlements which cannot be withheld for any reason, including as punishment.</p>

**Recommendation 38(d) – solitary confinement**

59. Immediately end the practice of solitary confinement for children across all jurisdictions.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Victoria	<p>Solitary confinement is prohibited in Victorian Youth Justice as per the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) rule 44.</p> <p>All use of isolation with young people in Victorian Youth Justice is reviewed on a daily basis by system wide senior management in order to address underlying issues and risks that lead to the use of isolation with young people.</p> <p>In Victorian Youth Justice and in accordance with section 488 of the <i>Children, Youth and Families Act 2005</i>, isolation is authorised only when all other reasonable steps have been taken to prevent the young person from harming themselves or any other person or from damaging property; the young person’s behaviour presents an immediate threat to their safety or the safety of any other person or to property; or it is in the interest of the security of the centre. Any period of isolation must be underpinned by the ongoing protection</p>



<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	and promotion of the young person's human basic rights, freedoms and physical and mental wellbeing and ceased at the earliest opportunity. The use of isolation, or the placing of a young person in a locked room for any length of time, separate from others and displaced from their normal routine, is a practice that restricts the liberty of young people and is therefore a last resort option for staff in all circumstances.
Western Australia	The Department of Justice, Corrective Services does not utilise solitary confinement on young people in custody. The Department of Justice, Corrective Services has undertaken extensive work to address impacts of lockdowns on out of cell hours. Out-of-cell hours are maximised wherever there is the opportunity.

### **Recommendation 38(e) – non-judicial measures**

60. Actively promote non-judicial measures, such as diversion, mediation and counselling, for children accused of criminal offences and, wherever possible, the use of non-custodial sentences such as probation or community service.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
New South Wales (NSW)	<p>In January 2023, Youth Justice NSW implemented a new practice enabling caseworkers to provide direct support to young people who do not receive bail supervision. It aims to reduce reoffending and improve sentencing outcomes for young people. Where local Youth Justice Community Office resourcing permits and a young person presents with a need for support, caseworkers may provide young people without mandated bail supervision, and their support people, with information about relevant services that could assist them in addressing identified needs. This support might include assistance with understanding bail conditions and coordinating linkages with further support services. Direct bail support is not mandatory and must not be compliance-based.</p> <p>NSW Health launched a new Safeguards program in 2023 in Sydney/Metro area to help young people transitioning out of custody. Safeguards Teams are a dedicated Child and Adolescent Mental Health Service designed to provide care to children and young people aged 0–17 years who are experiencing acute mental health distress. The Teams are community based and will provide rapid, mobile, intensive and flexible short-term support to help during mental health crisis.</p>
Queensland	<p>See Recommendation 32(b) above.</p> <p>The Queensland Government is supporting several initiatives, co-designed with local leadership, to improve mental health and social and emotional wellbeing outcomes, respond to substance misuse, and reduce rates of suicide in Aboriginal and Torres Strait Islander communities.</p> <p>Queensland has legislated requirements for the notification of the Aboriginal and Torres Strait Islander Legal Service.</p> <p>In 2023–24, the Queensland Government will establish a bespoke arts-led youth justice initiative in Townsville for young people at risk of offending and their families engaged in the Transition to Success program. The 12-month pilot aims to improve social and economic outcomes for this cohort and create an informed and capable arts workforce to deliver youth at risk programs with impact. Young people will be supported to connect, create, and learn through the arts, and improve future pathways.</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
South Australia	<p>See Recommendation 32(b) above.</p> <p>In 2023, the Government of South Australia developed an Easy Read resource to assist children and young people in understanding the bail application process and ensuring their right to a telephone review is upheld when denied police bail and a court is not available.</p> <p>In 2023, the Government of South Australia invested an additional \$1m over two years to continue the Child Diversion Program (CDP). The CDP diverts children aged between 10 to 13 years who have been charged with a minor offence away from a custodial environment. The program provides short-term, culturally safe, supported accommodation as an alternative to custody. CDP staff also support children and their families in the community.</p>
Victoria	<p>See Recommendation 32(b) above.</p> <p>The <i>Bail Amendment Bill 2023</i> was passed on 24 October 2023 to make the state's bail laws fairer for vulnerable and disadvantaged people, while continuing to take a tough approach to those who pose a serious risk to Victorians.</p> <p>The Victorian Government also launched the Youth Justice Bail After-hours Service (YJBAS) a state-wide, after-hours, bail assessment and advice service on 30 April 2023. YJBAS provides a single point of contact for bail assessments and advice in matters where police are seeking to remand a young person after hours.</p>
Western Australia	<p>See Recommendation 32(b) above.</p> <p>Under the <i>Criminal Law (Mental Impairment) Act 2023</i> children found unfit to stand trial will not be subject to indefinite detention and the Court will have a disposition option of community supervision. The Youth Bail Services also provides a diversionary option, as is the case for Juvenile Justice Teams. Numerous initiatives are being progressed for young people in detention to improve the safety of detainees, such as a suite of Aboriginal cultural supports that include Aboriginal people in their delivery, a new model of care which includes an expansion of mental health services, Crisis Care, and an Aboriginal Services Unit that is Aboriginal managed. The Department's Kimberley Juvenile Justice Strategy is an early intervention and diversionary initiative for young people in the Kimberley region, with a range of activities designed and delivered by Aboriginal Community Controlled Organisations in Broome, Derby, Fitzroy Crossing, Halls Creek, Kununurra and Wyndham.</p>

### **Recommendation 38(f) – detention in separate facilities**

61. Ensure, in cases in which detention is unavoidable, that children are detained in separate facilities and, for pretrial detention, to ensure that detention is regularly and judicially reviewed.

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
Queensland	<p>In August 2023, the <i>Youth Justice Act 1992</i> was amended to make it lawful to hold young people in police watchhouses until there is capacity in youth detention centres. This amendment provides a framework for decision-making about the timing of the transfers, which ensures any relevant factor can be considered. The objective of the framework is to balance the interests of young people in watchhouses, young people held in youth detention centres, and staff employed at youth detention centres and watchhouses. This provision is time-limited and will expire on 31 December 2026, by which time</p>

<i>Jurisdiction</i>	<i>Measures taken in the last year</i>
	<p>it is anticipated that the two new Queensland therapeutic youth detention centres will be operational (see Recommendation 32(a)).</p> <p>Where a child is detained in a watchhouse, the child must be segregated from adult prisoners unless there are compelling reasons in the child's interests. This would include, for example, detaining an Aboriginal or Torres Strait Islander child with Aboriginal or Torres Strait Islander adult prisoners where this is safer than isolation, the child agrees and the adult is of the same gender.</p> <p>In March 2023, the <i>Strengthening Community Safety Act 2023</i> came into force which made changes to several other Acts, including the <i>Youth Justice Act 1992</i> for the transfer to adult custody of both sentenced and remanded 18-year-olds, to reduce contact between child detainees and adults.</p>
Victoria	<p>In Victoria, young people may be sentenced to detention in a youth residential centre, youth justice centre, or a term of imprisonment. The Adult Parole Board has a broad discretion to direct that a young person serving a sentence of imprisonment be transferred to a youth justice centre until they are 21 years of age. In limited circumstances and upon application, the Youth Parole Board can also transfer a young person to detention in an adult custodial facility. In addition, the <i>Children Youth and Families Act 2005</i> includes aged-based separation requirements and requirements to separate young people on remand from those under sentence.</p> <p>Further, Victoria's <i>Charter of Human Rights and Responsibilities Act 2006</i> and the <i>Child Wellbeing and Safety Act 2005</i> set out basic rights, freedoms and responsibilities for children as well as compulsory minimum standards for the protection of children.</p>