



**Australian  
Human Rights  
Commission**

NSW Juvenile Justice:  
Human rights and the  
use of force

**AUSTRALIAN HUMAN RIGHTS COMMISSION SUBMISSION  
TO THE NSW INSPECTOR OF CUSTODIAL SERVICES**

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## 1 Introduction

1. The Australian Human Rights Commission makes this submission to the Inspector of Custodial Services on its examination of the use of force and the use of separation, segregation and confinement of detainees in juvenile justice centres in NSW.
2. The Commission commends the Inspector for taking a leadership role on this matter, to identify and implement best practice in the context of management of youth justice detention. Youth justice detention and its oversight continues to be a key area of work for the Commission.
3. In 2016 the National Children's Commissioner (NCC) conducted a national examination of the oversight mechanisms in youth justice detention in Australia. As part of NCC's examination, she consulted with children who raised the damaging effects of the use of collective punishment, physical force, segregation, and isolation. The key findings and recommendations from this examination were published in the Children's Rights Report 2016.<sup>1</sup>
4. On 21 February 2017 the National Children's Commissioner wrote to the NSW Premier about the Commissioner's examination, and offered her support in moving forward in this area. On 27 April 2017 the NSW Premier responded to the Commissioner's letter, saying that NSW agencies are currently reviewing the arrangements for overseeing youth justice detention, and other places of detention, against OPCAT standards.
5. This submission addresses three aspects of the Terms of Reference. Firstly, it analyses what the domestic law is regarding the use of force and isolation (including separation, segregation and confinement) of child detainees. Secondly, it assesses the validity of domestic legislation in the context of the relevant international human rights standards; and thirdly, the submission proposes alternative strategies to the use of force.

## 2 Recommendations

The Australian Human Rights Commission recommends:

**Recommendation 1:** that the Inspector take OPCAT's oversight mechanisms into account when reviewing the use of isolation in NSW juvenile justice centres.

**Recommendation 2:** that the Inspector strengthens and develops consistency between the reporting requirements for confinement and segregation in NSW juvenile justice centres.

**Recommendation 3:** that clause 65 of the Regulation is reviewed to ensure the scope of the use of force is narrowed.

**Recommendation 4:** that more specific and robust monitoring and reporting processes are implemented for when force or restraints are used against child detainees.

**Recommendation 5:** that the NSW Inspector take OPCAT's oversight mechanisms into account when reviewing the use of force and restraints in NSW juvenile justice centres.

**Recommendation 6:** that the Inspector develops alternative management techniques to the use of force, restraints and isolation.

### **3 Relevant international human rights standards**

6. There are a number of international human rights treaties, which are relevant to this Inquiry including the *Convention on the Rights of the Child* (CRC),<sup>2</sup> the *International Covenant on Civil and Political Rights* (ICCPR),<sup>3</sup> the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT),<sup>4</sup> and the *Optional Protocol to the Convention Against Torture* (OPCAT).<sup>5</sup> These international human rights standards are a benchmark for governments to work towards.

#### **3.1 CRC**

7. The CRC provides the overarching international human rights legal framework for the protection, promotion and fulfilment of the rights of children. Of importance are the four key principles which underpin the CRC. These are:
- **Non-discrimination (Article 2)**
  - **The best interests of the child (Article 3)**
  - **Ensuring the child's survival and development (Article 6)**
  - **Participation / right to be heard (Article 12)**
8. In addition to these, the following rights are particularly relevant to this Inquiry:
- **Article 19:** State Parties' responsibility to protect children from physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.
  - **Article 37:**
    - No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment;
    - No child shall be deprived of their liberty unlawfully or arbitrarily.
    - Every child deprived of their liberty shall be treated with humanity.
    - Every child deprived of their liberty shall have the right to prompt access to legal and other appropriate assistance.
  - **Article 39:** States Parties' responsibility to promote the physical and psychological recovery and social reintegration of child victims.
  - **Article 40:** Right to treatment promoting child's sense of dignity and worth.

9. These articles make specific mention of the responsibility of State Parties to protect children from injury, abuse, neglect or negligent treatment, torture, inhuman or degrading treatment or punishment.

### **3.2 ICCPR**

10. The ICCPR commits States Parties to protect the civil and political rights of individuals. Of relevance to this submission is Article 7 which prohibits the torture, cruel and inhuman or degrading treatment and punishment of any person.<sup>6</sup>
11. Australia ratified the ICCPR in 1980.

### **3.3 CAT**

12. Australia ratified CAT in 1989. Article 16 prohibits acts of torture, cruel, inhuman or degrading treatment or punishment carried out by public officials on behalf of a state or territory.<sup>7</sup>
13. The UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) has stated that prolonged solitary confinement may amount to an act of torture and other cruel, inhuman or degrading treatment or punishment.
14. The SPT has recommended that solitary confinement should not be used on children.<sup>8</sup>

### **3.4 OPCAT**

15. Since signing OPCAT in 2009, the Australian Government has taken steps towards its ratification and implementation. In February 2017 the Government announced its intention to ratify OPCAT by December 2017.<sup>9</sup>
16. OPCAT requires the Government to put into place new and expanded oversight mechanisms to prevent torture and other cruel, inhuman or degrading treatment or punishment in places of detention and closed environments. It aims to enable States Parties to implement their existing commitments under the CAT.
17. OPCAT is relevant to this submission because the mechanisms required under the Optional Protocol should be implemented to ensure children and young people in juvenile justice centres are protected and their rights upheld through transparent and accountable processes.
18. OPCAT sets out a monitoring system comprised of two complementary and independent expert bodies at the international and national levels:
  - The SPT, which has powers to conduct visits to any place of detention within Australia

- A National Preventive Mechanism (NPM), a body (or series of bodies) that monitors any place of detention within Australia. To be a NPM, a body must meet certain criteria under OPCAT,<sup>10</sup> including functional independence; right to access information; access to places of detention; and annual reporting requirements.

These mechanisms are intended to be preventative in nature, and deliver technical assistance to agencies so that they can build capacity and improve standards and practices over time.

## **4 Isolation and the use of force**

### **4.1 Confinement and Segregation**

19. In NSW, section 21(1) of the *Children (Detention Centres) Act 1987* provides that a child detainee in a juvenile justice centre may be confined as a form of punishment for misbehaviour. The period of confinement must not exceed 12 hours, or 24 hours for detainees over the age of 16 years.
20. Section 19 of the Act limits the use of segregation of a child detainee to protect the safety of the detainee or other people. Segregation specifically may not be used for punishment.<sup>11</sup> Conditions are imposed on the use of segregation, including in relation to the duration (not longer than three hours without the approval of the Secretary of the Department of Justice), environment, and supervision.<sup>12</sup> Segregation must not be used unless the centre manager is satisfied that there is no practicable alternative to protect the safety of the detainee or others.<sup>13</sup> If approved by the Secretary, it appears that a child detainee may be segregated for an indefinite period of time.
21. It is unclear what reporting is required following the confinement of child detainees under section 21 of the Act. In contrast, section 19 directs that the centre manager must keep a record of any segregation, forwarding a copy of the details of segregation to the Secretary and the detainee (within 24 hours of the segregation).<sup>14</sup>
22. The scope and flexibility of the legislation enabling the legal confinement and segregation of child detainees at the discretion of centre managers and as a form of punishment, is inconsistent with international human rights standards. The Commission further notes that there is overwhelming research that isolation, particularly prolonged confinement, can cause serious psychological damage, and does not lead to a reduction in violence or recidivism.<sup>15</sup>
23. The isolation (confinement and/or segregation) of child detainees is in breach of articles 3 and 37 of the CRC. Article 3 maintains that all actions concerning children should be made with the best interests of the child as a primary consideration. Article 37 provides that children should not be subjected to torture or other inhuman or degrading treatment or punishment and that no child should be deprived of their liberty, either unlawfully or lawfully.<sup>16</sup> In view of the obligations contained within the CRC, the Commission considers that the confinement and segregation of children violates the rights of the child.

24. The Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment has noted that the Committee on the Rights of the Child has ‘urged State Parties to prohibit and abolish the use of solitary confinement against children’.<sup>17</sup> In its General Comment, No 10, the Committee stated that any disciplinary measures in the institutional care of juveniles must be consistent with the CRC and that any violation of article 37 is ‘strictly forbidden’.<sup>18</sup>
25. The solitary confinement and isolation of any person, particularly children, is cruel, inhuman or degrading treatment and violates article 7 of the ICCPR and article 16 of CAT.<sup>19</sup> The UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment recommended that States abolish solitary confinement for children and implement alternative disciplinary methods.<sup>20</sup>
26. Further, a recent judgment of the Supreme Court of Victoria held that isolation, confinement and use of force is in breach of human rights. In the matter of *Certain Children v Min. for Families and Children and Ors*, the Court held that the use of isolation, confinement and segregation against child detainees detrimentally affected the inherent dignity of children and the fundamental rehabilitative objectives of care in detention.<sup>21</sup>
27. This judgement can also be linked to the prohibition of the confinement of children in international law and the recognition that imprisonment contributes to a loss of a child’s dignity.<sup>22</sup> In light of this domestic jurisprudence, the Commission urges the NSW government to strengthen the domestic legislation, in particular, *Children (Detention Centres) Act NSW 1987*, to protect the rights of children in detention.

**Recommendation 1:** The Commission recommends that the Inspector take OPCAT’s oversight mechanisms into account when reviewing the use of isolation in NSW juvenile justice centres.

**Recommendation 2:** The Commission recommends that the Inspector strengthens and develops consistency between the reporting requirements for confinement and segregation in NSW juvenile justice centres.

## **4.2 Use of force or restraints**

28. Clause 65 of the *Children (Detention Centres) Regulation 2015* (NSW) provides that a juvenile justice officer may use force, which includes ‘instruments of restraint’ (e.g. handcuffs, ankle cuffs, flexi cuffs, and restraining belts),<sup>23</sup> in certain circumstances. The circumstances include: to prevent a detainee from injuring themselves or others, or seriously damaging property; to prevent a detainee from escaping; to search a detainee if they refuse to be searched; to seize any dangerous article or substance from a detainee; to prevent or quell a riot or other disturbance; to move a detainee who refuses to move from one location to another in accordance with an order of the officer, if the officer first gives a warning; and, to protect a dog (being used to assist in the detection of prohibited goods) from attack or harm.<sup>24</sup> A juvenile justice officer must use no more force than is reasonably necessary in the

circumstances, and injury to the detainee must be avoided if possible.<sup>25</sup>

Handcuffing of a detainee as punishment, or handcuffing or forcibly restraining a detainee without reasonable excuse, is prohibited.<sup>26</sup>

29. The Commission is concerned about the wide range of instances when a juvenile justice officer may use force against a child detainee, in particular, the exception referring to the use of force in the protection of a dog.<sup>27</sup>
30. According to the international human rights standards, the use of force and restraints should only be used when the child detainee poses “an imminent threat” to either themselves or others and only when all alternative measures have been exhausted.<sup>28</sup>
31. In any other circumstance, the use of force and restraints is in breach of international human rights standards, specifically articles 3, 19 and 37 of the CRC, article 7 of the ICCPR and article 16 of the CAT.
32. It is the view of the Commission that the NSW Inspector should make all practical steps to ensure the review into use of force against detainees in juvenile justice centres in NSW is consistent with international human rights standards.
33. The Australian Government has indicated it will ratify OPCAT by December 2017.<sup>29</sup> Ratification of OPCAT will require the implementation of mechanisms, which ensure children and young people in juvenile justice centres are protected and their rights upheld through transparent and accountable processes.
34. In the matter of *Certain Children v Min. for Families and Children and Ors*, the Court held that the authorising of new categories of weapons, extendable batons and Oleoresin Capsicum spray, that may be used in a place where children are detained is inconsistent with the *Victorian Charter of Human Rights and Responsibilities Act 2006*.<sup>30</sup>

**Recommendation 3:** The Commission recommends that clause 65 of the Regulation is reviewed to ensure the scope of the use of force is narrowed.

**Recommendation 4:** The Commission recommends that more specific and robust monitoring and reporting processes are implemented for when force or restraints are used against child detainees.

**Recommendation 5:** The Commission recommends that the NSW Inspector take OPCAT’s oversight mechanisms into account when reviewing the use of force and restraints in NSW juvenile justice centres.

## **5 Alternatives to the use of force and isolation**

35. As noted by the international human rights standards, the use of force and isolation techniques are damaging to children and should be used as a last resort.<sup>31</sup> It is therefore the view of the Commission that the Inspector develops alternative management techniques as an outcome of this Inquiry.



36. The Commission acknowledges that implementing alternative measures to force and isolation is challenging, especially when confronted with cultures where these measures have become normal practice. We consider that reducing the use of force and isolation successfully and sustainably requires a holistic approach to agency reform and culture change, starting with the leadership.<sup>32</sup>
37. There are several US initiatives that aim to assist youth justice detention facilities to shift away from the use of force and isolation on child detainees. First, the Council of Juvenile Correctional Administrators has developed a toolkit for reducing the use of isolation, which is intended to guide youth justice detention administrators in changing cultures that rely on isolation as a behaviour management tool.<sup>33</sup> Secondly, the Juvenile Detention Alternatives Initiative has developed a website with a range of resources aimed at improving staff training in youth justice detention facilities.<sup>34</sup> Thirdly, the Sanctuary Model, developed by the Sanctuary Institute, is an evidence-based, trauma-informed therapeutic approach to whole organisational change, which is being applied in a wide range of settings, including youth justice.<sup>35</sup>
38. The Commission suggests that the following core elements of the above initiatives should be considered in reforms to youth justice detention in NSW:
- Adopt a mission statement and philosophy that reflects rehabilitative goals and does not focus on punishment;
  - Prohibit the use of isolation as punishment, and adopt clear limits on the use of isolation in policy and procedures. This should include the use of isolation as a last resort only after verbal de-escalation techniques are employed to defuse a situation;
  - Develop alternative behaviour management options and responses;
  - Maintain adequate staffing levels (recommended staff to youth ratio is generally at least 1:6), and;
  - Train and develop staff in policy, values and standards, and how these relate to practices on the ground.

**Recommendation 6:** The Commission recommends that the Inspector develops alternative management techniques to the use of force, restraints and isolation.

## **Appendix A: CASE NOTE *Certain children v Min. for Families and Children and Ors***

39. Earlier this month, the Supreme Court of Victoria handed down its judgement in the matter of *Certain Children v Min. for Families and Children and Ors*. The plaintiffs, all children detained within the Barwon adult maximum security prison, known as the Grevillea Unit (Grevillea), succeeded in their challenge to the lawfulness of their detention at the adult prison under the *Victorian Charter of Human Rights and Responsibilities Act 2006* (the Victorian Charter). Relevantly, a number of aspects of the use of force in juvenile justice settings arose as issues in this case.
40. One aspect of the plaintiffs challenge was focussed on the use of OC spray in the context of the built environment at Grevillea. In considering this issue, the Court noted that administrative orders permitting prison officers to possess, carry and use extendable batons and OC spray may engage rights under the Victorian Charter, regardless of whether the powers are used. For example, s 22(1) of the Victorian Charter protects every person's right to humane treatment when deprived of liberty. Section 17(2) of the Victorian Charter protects a child's right to protection in his or her best interests. The act of authorising new categories of weapons that may be used in a place where children are detained itself raises the question of the compatibility of the use of those particular weapons in that place with Victorian Charter rights.
41. The Court focused its consideration on the effect likely to be experienced by persons others than those directly involved (the innocent bystanders) in a situation where OC spray is used. The necessity of balancing the benefits of OC spray in avoiding escalation of confrontational violence, with the detrimental effects that are likely to be experienced by innocent bystanders was highlighted. His Honour, the Honourable Justice John Dixon, concluded that "it cannot be seriously contested that there is no indignity and a want of humanity in using OC spray in circumstances where an adverse effect will be suffered by innocent persons." His Honour went on to find that an exemption granted under s 8B of the Control of Weapons Act (Vic)1990 allowing the possession and use by specified corrections staff of OC Spray and extendable batons within Grevillea, was unlawful as proper consideration had not been given to the human rights under s 17(2) and 22(1) of the Victorian Charter, of those detainees who were innocent bystanders when OC spray might be used within the confined space of the Grevillea Unit.
42. More generally, His Honour found that the limitations imposed on the human rights of the detainees were not demonstrably justified in a substantive sense as reasonable in a free and democratic society based on human dignity, equality and freedom. The principal limitations on the plaintiffs' human rights included the extensive incidence of isolation by lockdown for substantial periods, and the use of handcuffs in order to move detainees between one wing of Grevillea and the outdoor exercise area, through an unused area of the adult prison. The Court stated that disciplinary measures applied through the use of isolation by lockdown and handcuffing detrimentally affected the

inherent dignity of children and the fundamental rehabilitative objectives of care in detention.

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- <sup>1</sup> Australian Human Rights Commission, *Children's Rights Report 2016*. At <https://www.humanrights.gov.au/our-work/childrens-rights/publications/childrens-rights-report-2016> (viewed 29 May 2017).
- <sup>2</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990). At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (viewed 29 May 2017).
- <sup>3</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976). At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> (viewed 29 May 2017).
- <sup>4</sup> *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987). At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> (viewed 29 May 2017).
- <sup>5</sup> *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 4 February 2003, 2375 UNTS 237 (entered into force 22 June 2006). At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx> (viewed 29 March 2017).
- <sup>6</sup> *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976). At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> (viewed 29 May 2017).
- <sup>7</sup> *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987) art 16. At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> (viewed 29 May 2017).
- <sup>8</sup> Subcommittee on Prevention of Torture, *Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay*, UN Doc CAT/OP/PRY/1 (7 June 2010) [185]. At [www.refworld.org/pdfid/4ef0bf362.pdf](http://www.refworld.org/pdfid/4ef0bf362.pdf) (viewed 29 May 2017).
- <sup>9</sup> Minister for Foreign Affairs and Attorney General, 'Improving oversight and conditions in detention' (Media Release, 9 February 2017). At <https://www.attorneygeneral.gov.au/Mediareleases/Pages/2017/FirstQuarter/Improving-oversight-and-conditions-in-detention.aspx> (viewed 29 May 2017).
- <sup>10</sup> *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 4 February 2003, 2375 UNTS 237 (entered into force 22 June 2006) arts 17-23. At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx> (viewed 29 March 2017).
- <sup>11</sup> *Children (Detention Centres) Act 1987* (NSW) s 19.
- <sup>12</sup> *Children (Detention Centres) Act 1987* (NSW) s 19(1).
- <sup>13</sup> *Children (Detention Centres) Act 1987* (NSW) s 19(4).
- <sup>14</sup> *Children (Detention Centres) Act 1987* (NSW) s 19(3).
- <sup>15</sup> Council of Juvenile Correctional Administrators, 'CJCA Toolkit: Reducing the Use of Isolation' [2015] Council of Juvenile Correctional Administrators 3. At <http://cjca.net/index.php/resources/cjca-publications/107-toolkit/751-cjca-toolkit-for-reducing-the-use-of-isolation> (viewed 29 May 2017).
- <sup>16</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990). At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (viewed 29 May 2017).
- <sup>17</sup> Juan E Méndez, *Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* 66<sup>th</sup> sess, UN doc A/66/268 (5 August 2011) [33]. At <https://archive.org/details/452639-un-report-on-torture> (viewed 29 May 2017).
- <sup>18</sup> Committee on the Rights of the Child, *General Comment No 10: Children's Rights in Juvenile Justice*, 45<sup>th</sup> sess, UN Doc CRC/C/GC/10 (25 April 2007) [89]. At <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf> (viewed 29 May 2017).
- <sup>19</sup> Juan E Méndez, *Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* 66<sup>th</sup> sess, UN doc A/66/268 (5 August 2011) [77], [81]. At <https://archive.org/details/452639-un-report-on-torture> (viewed 29 May 2017).

- <sup>20</sup> Juan E Méndez, *Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* 66<sup>th</sup> sess, UN doc A/66/268 (5 August 2011) [86]. At <https://archive.org/details/452639-un-report-on-torture> (viewed 29 May 2017).
- <sup>21</sup> *Certain Children v Minister for Families and Children & Ors* (No 2) [2017] VSC 251 (11 May 2017).
- <sup>22</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) arts 37, 40. At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (viewed 29 May 2017); *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987) art 16. At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> (viewed 29 May 2017); *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 7. At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> (viewed 29 May 2017).
- <sup>23</sup> *Children (Detention Centres) Regulation 2015* (NSW) cl 62.
- <sup>24</sup> *Children (Detention Centres) Regulation 2015* (NSW) cl 65(1), (2).
- <sup>25</sup> *Children (Detention Centres) Regulation 2015* (NSW) cl 65(3).
- <sup>26</sup> *Children (Detention Centres) Act 1987* s 22(1)(a), (2).
- <sup>27</sup> *Children (Detention Centres) Regulation 2015* (NSW) cl 65(1).
- <sup>28</sup> Committee on the Rights of the Child, *General Comment No 10: Children's Rights in Juvenile Justice*, 45<sup>th</sup> sess, UN Doc CRC/C/GC/10 (25 April 2007) [89]. At <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf> (viewed 29 May 2017).
- <sup>29</sup> Minister for Foreign Affairs and Attorney General, 'Improving oversight and conditions in detention' (Media Release, 9 February 2017). At <https://www.attorneygeneral.gov.au/Mediareleases/Pages/2017/FirstQuarter/Improving-oversight-and-conditions-in-detention.aspx> (viewed 29 May 2017).
- <sup>30</sup> *Certain Children v Minister for Families and Children & Ors* (No 2) [2017] VSC 251 (11 May 2017); *Victorian Charter of Human Rights and Responsibilities Act 2006*.
- <sup>31</sup> *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 37. At <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (viewed 29 May 2017); Committee on the Rights of the Child, *General Comment No 10: Children's Rights in Juvenile Justice*, 45<sup>th</sup> sess, UN Doc CRC/C/GC/10 (25 April 2007) [89]. At <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf> (viewed 29 May 2017); Subcommittee on Prevention of Torture, *Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to the Republic of Paraguay*, UN Doc CAT/OP/PRY/1 (7 June 2010) [185]. At [www.refworld.org/pdfid/4ef0bf362.pdf](http://www.refworld.org/pdfid/4ef0bf362.pdf) (viewed 29 May 2017); Juan E Méndez, *Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment* 66<sup>th</sup> sess, UN doc A/66/268 (5 August 2011) [33]. At <https://archive.org/details/452639-un-report-on-torture> (viewed 29 May 2017); *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, GA Res 45/113, UN GAOR, 45<sup>th</sup> sess, 68<sup>th</sup> plen mtg, UN Doc A/RES/45/113 (14 December 1990) [63]-[64]. At <http://www.un.org/documents/ga/res/45/a45r113.htm> (viewed 29 May 2017).
- <sup>32</sup> Council of Juvenile Correctional Administrators, 'CJCA Toolkit: Reducing the Use of Isolation' [2015] Council of Juvenile Correctional Administrators' 6. At <http://cjca.net/index.php/resources/cjca-publications/107-toolkit/751-cjca-toolkit-for-reducing-the-use-of-isolation> (viewed 29 May 2017).
- <sup>33</sup> Council of Juvenile Correctional Administrators, 'CJCA Toolkit: Reducing the Use of Isolation' [2015] Council of Juvenile Correctional Administrators'. At <http://cjca.net/index.php/resources/cjca-publications/107-toolkit/751-cjca-toolkit-for-reducing-the-use-of-isolation> (viewed 29 May 2017).
- <sup>34</sup> Juvenile Detention Alternatives Initiative, 'Tools and resources'. At <http://www.jdaihelpdesk.org/SitePages/conditionsofconfinement.aspx> (viewed 29 May 2017).
- <sup>35</sup> Sanctuary Institute, 'The Sanctuary model'. At <http://thesanctuaryinstitute.org/about-us/the-sanctuary-model> (viewed 29 May 2017).