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For the attention of: Mr Francisco Calí Tzay, United Nations Special Rapporteur on the rights of Indigenous peoples

**joint submission for the report of the special rapporteur on the rights of indigenous peoples to the general assembly -**

**impact of covid-19 on indigenous peoples**

*3,289 words (not including endorsements, headings,*

*text boxes, contents, glossary, end notes)*

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**(1) glossary**

**APONT** - Aboriginal Peak Organisations Northern Territory

**APT** - Association for the Prevention of Torture

**IASC** - Inter-Agency Standing Committee

**NATSILS** - National Aboriginal & Torres Strait Islander Legal Services

**NPM** - National Preventive Mechanism

**OHCHR**- Office of the High Commissioner for Human Rights

**OICS** - Western Australian Office of the Inspector of Custodial Services

**OPCAT** - Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

**SPT** - Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

**UNDRIP** - United Nations Declaration on the Rights of Indigenous Peoples

**WHO** - World Health Organisation

**(2) executive summary**

The Special Rapporteur on the rights of [I]ndigenous peoples (the **Special Rapporteur**) has identified a number of issues that may be addressed in the report to the General Assembly, including the ‘[i]mpacts of lockdown, quarantines and other responses on access to… justice’ and ‘[d]iscrimination and disproportionate impacts of State restriction, confinement measures and other pandemic-related policies on [I]ndigenous peoples.’

This submission addresses the disproportionate and discriminatory impacts of COVID-19 on the rights of Aboriginal and Torres Strait Islander people with regard to the Australian criminal legal system, particularly focusing on places of detention. This submission relates to correctional centres, correctional work camps, youth detention centres, police cells, court cells, supported bail accommodation, places where people are temporarily detained (such as hospitals) and modes of transport.

The submission identifies significant protection gaps, including a lack of Federal, State and Territory Government transparency in relation to places of detention and robust, culturally-appropriate, OPCAT-compliant detention oversight across all jurisdictions during the pandemic.

**(3) conditions of detention and treatment of detained aboriginal and torres strait islander people during covid-19**

**overincarceration & the disproportionate impacts of COVID-19**

The Special Rapporteur has raised concerns that ‘COVID-19 is both highlighting and exacerbating current and ongoing human rights situations faced by many [I]ndigenous peoples,’ and has requested information on ‘how States of emergency may contribute to threats or aggravate ongoing human rights violations against [I]ndigenous peoples.’ The Special Rapporteur has noted that issues that may be addressed in the report to the General Assembly include ‘[i]ncidence, mortality rates and increased risk of infection in [I]ndigenous communities; [d]isparities and obstacles to adequate healthcare… and lack of culturally appropriate and accessible services,’ and have asked for examples of ‘increased risks and/or disproportionate health impact of the pandemic on [I]ndigenous peoples.’ They note that the ‘lack of access to adequate health care services’ renders Indigenous people ‘particularly vulnerable to the spread of disease.’

***aboriginal and torres strait islander people in detention***

It has been established that places of detention are a high-risk environment with regards to both COVID-19 transmission[[1]](#endnote-1) and its disproportionate impact on detained people (due to their poorer health and the fact that healthcare provision is often not equivalent to that in the rest of the community, despite international law requiring equivalence of care,[[2]](#endnote-2) and the fact that that the International Covenant on Economic, Social and Cultural Rights explicitly requires that States take steps for the ‘prevention, treatment and control of epidemic… diseases’[[3]](#endnote-3)). Although to date there have not yet been confirmed cases of COVID-19 among people detained in places of detention within the criminal legal system (there have been confirmed cases among staff[[4]](#endnote-4)), there have been outbreaks of COVID-19 in other closed environments in Australia,[[5]](#endnote-5) and ‘the continuing risk of COVID-19 to people held in places of detention should not be underestimated.’[[6]](#endnote-6)

The Office of the High Commissioner for Human Rights’ (**OHCHR**) statement that ‘ethnic minority and socioeconomically disadvantaged individuals are differentially affected by both the criminal justice system and COVID-19’[[7]](#endnote-7) applies to the Australian context, with Aboriginal and Torres Strait Islander people being grossly overrepresented in places of detention,[[8]](#endnote-8) and receiving inferior healthcare in prison compared to non-Indigenous people.[[9]](#endnote-9)

National Aboriginal & Torres Strait Islander Legal Services (**NATSILS**) has identified that testing of and provision of immediate, appropriate medical treatment for detained Aboriginal and Torres Strait Islander people who develop symptoms is crucial to preventing deaths in custody, and has called for families and the Aboriginal and Torres Strait Islander Custody Notification Services to be immediately notified of COVID-19 cases. NATSILS has recommended that the United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**) be incorporated into domestic law in all Australian jurisdictions, as a matter of priority, particularly noting the UNDRIP obligation to provide Aboriginal and Torres Strait Islander people the highest attainable standard of physical and mental health, regardless of where they live.[[10]](#endnote-10)

Given the fact that ‘widespread community transmission of COVID-19 within a correctional institution is likely to result in a disproportionately high COVID-19 mortality rate,’[[11]](#endnote-11) the high risk to the health and lives of detained Aboriginal and Torres Strait Islander people, including children, makes essential the immediate implementation of preventative measures.

***aboriginal and torres strait islander communities***

Places of detention are not insulated from the rest of the community; they are porous,[[12]](#endnote-12) and should be understood and treated as such. People in detention are regularly released back into the community, whether on bail, parole or on the completion of their sentences, people enter detention upon arrest or sentencing, and staff and contractors enter and leave places of detention on a daily basis.

It has been well-established that an outbreak in detention would have catastrophic public health implications for the rest of the community.[[13]](#endnote-13) Containing COVID-19 in detention is thus integral to the broader efforts to contain COVID-19 throughout the rest of the community.[[14]](#endnote-14) This is of particular importance as Australia begins to ease restrictions, with other countries having experienced second COVID-19 spikes related to outbreaks in overcrowded and unsanitary environments.[[15]](#endnote-15) Australia’s luck in containing COVID-19 thus far could quickly change with an outbreak in detention.[[16]](#endnote-16)

Due to a number of entrenched and systemic factors, including the ongoing impacts of colonisation, Aboriginal and Torres Strait Islander people are over imprisoned in Australia. Any outbreak in detention would in turn have a disproportionate effect on their communities (which are forced into poorer health outcomes and poorer access to healthcare than the rest of the community[[17]](#endnote-17)), to which they will return. Failure to take preventative steps through early and temporary releases (discussed below) undermines the efforts of the ‘Aboriginal community-controlled health sector [which] has reacted swiftly and effectively to the COVID-19 outbreak.’[[18]](#endnote-18) As Aboriginal Peak Organisations Northern Territory (**APONT**) has noted, ‘[t]here is little doubt that without the leadership and agility of NT Aboriginal organisations and the willingness of the NT Government to respond quickly, the situation in the NT could have been very serious with catastrophic outcomes for its vulnerable Aboriginal population.’[[19]](#endnote-19)

**torture and cruel, inhuman or degrading treatment or punishment of detained aboriginal and torres strait islander people during covid-19**

The Special Rapporteur has noted that ‘[c]urfews, lockdowns, quarantine and other imposed isolation measures imposed as a response to the pandemic may cause additional hardships… Increased State security measures imposed during emergency situations… may also directly impact [I]ndigenous communities.’

The UN Human Rights Committee’s statement reaffirming that States must not derogate from the prohibition of torture during the pandemic,[[20]](#endnote-20) the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment’s (**SPT**) advice regarding the non-derogable prohibition of torture during the pandemic,[[21]](#endnote-21) the World Health Organisation (**WHO**) guidance in relation to routine intake quarantine[[22]](#endnote-22) and the Inter-Agency Standing Committee’s (**IASC**) guidance regarding de facto solitary confinement during COVID-19[[23]](#endnote-23) all echo the rights and obligations under the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment[[24]](#endnote-24) and the United Nations Standard Minimum Rules for the Treatment of Prisoners,[[25]](#endnote-25) and the Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment’s position on solitary confinement.[[26]](#endnote-26) Despite this, and the Communicable Diseases Network Australia’s guidance regarding lockdown,[[27]](#endnote-27) solitary confinement and excessive lockdown have formed part of Governments’ responses to COVID-19 in places of detention.[[28]](#endnote-28)

The recent submission to the *Select Committee on COVID-19 to inquire into the Australian Government’s response to the COVID-19 pandemic*, ‘OPCAT, places of detention and COVID-19’ by an alliance of civil society organisations and academics (the **Select Committee submission**) [[29]](#endnote-29) and the submission by Danila Dilba Health Service (**Danila Dilba**)[[30]](#endnote-30) both called for the prohibition of the use of solitary confinement and other ‘practices that amount to torture or cruel, inhuman or degrading treatment or punishment.’[[31]](#endnote-31)

The Select Committee submission highlighted that:

Solitary confinement has a particularly detrimental impact on Aboriginal and Torres Strait Islander people, with the Royal Commission into Aboriginal Deaths in Custody noting the ‘extreme anxiety suffered by Aboriginal prisoners committed to solitary confinement’ and that ‘it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention.’[[32]](#endnote-32)

As already noted, Aboriginal and Torres Strait Islander people, particularly Aboriginal and Torres Strait Islander people with disabilities, are overrepresented in places of detention, and these lockdown and quarantine measures directly and disproportionally impact on them.

**release of detained aboriginal and torres strait islander people and curbing admissions to detention**

Numerous UN bodies, WHO, International Committee of the Red Cross (**ICRC**), Council of Europe[[33]](#endnote-33) and health experts internationally have called for early and temporary releases of detained people and for curbing of admissions to detention.[[34]](#endnote-34)

The Select Committee submission recommended that:

Federal, State and Territory Governments must take immediate action to reduce the number of people held in places of detention. This should include responsibly releasing people who are at higher risk of significant harm should they contract COVID-19, including Aboriginal and Torres Strait Islander people, elderly people, people with chronic health conditions, people living with disability, people with mental health conditions, children, young people, pregnant women, primary caregivers for young children…’[[35]](#endnote-35)

NATSILS has called for:

the immediate release of Aboriginal and Torres Strait Islander adults and young people who are: most at risk, with pre-existing health issues, including elderly people, people with chronic health conditions, disability, and/or mental health conditions; on remand, including by fast-tracking bail applications; imprisoned for a term of six months or less, and those who have six months or less left to serve, with expedited parole processes.[[36]](#endnote-36)

Change the Record (Australia’s only national Aboriginal led justice coalition of Aboriginal peak bodies and non-Indigenous allies),[[37]](#endnote-37) Danila Dilba[[38]](#endnote-38) and the Australian Medical Association have echoed the above recommendations.[[39]](#endnote-39) The Australian Medical Association’s submission to the Senate Select Committee supported ‘actions that reduce the number of people held in places of detention’, recognising that Aboriginal and Torres Strait Islander people are ‘at higher risk of contracting COVID-19.’[[40]](#endnote-40)

The above recommendations are supported as a means by which to protect the human rights, health and lives of detained Aboriginal and Torres Strait Islander people. Measures must be put in place (eg supported bail accommodation) to facilitate more releases, and supports including housing and medical must be provided to all people who are released.

Given that ‘Aboriginal and Torres Strait Islander people are less likely to be granted bail than non-Aboriginal and Torres Strait Islander people,’[[41]](#endnote-41) it is imperative that bail decision-making processes are ‘reviewed and reformed to promote equitable and culturally responsive decision-making processes; and that gaps in culturally appropriate bail support services and programs be identified and addressed,’[[42]](#endnote-42) and that ‘additional support be provided to Aboriginal and Torres Strait Islander people in seeking bail-supported accommodation.’[[43]](#endnote-43) In light of COVID-19, it is critical that Aboriginal and Torres Strait Islander people are not imprisoned as a result of entrenched social and economic disparities.

**(4) identified protection gap – lack of culturally appropriate, opcat-compliant detention oversight during covid-19**

**risk of detaining authorities and government acting with impunity when violating aboriginal and torres strait islander people’s rights**

The Special Rapporteur has noted that the ‘impact of COVID-19 on [I]ndigenous peoples should be researched and documented to guide States’ responses and to ensure these exceptional times do not exacerbate or justify impunity for violations of [I]ndigenous peoples’ rights.’

Those who are marginalised are more vulnerable to torture and ill-treatment[[44]](#endnote-44) and detained Indigenous people are at a higher risk of torture and ill-treatment.[[45]](#endnote-45) As discussed above, these risks are heightened during COVID-19. Across Australia, detention oversight mechanisms are currently inadequate, limiting the opportunities to prevent torture and ill-treatment and to ensure detaining authorities do not act with impunity.

**need for the implementation of opcat and robust detention oversight during the pandemic**

WHO and numerous UN bodies have recommended that independent oversight of places of detention continues throughout the pandemic,[[46]](#endnote-46) as has the ICRC,[[47]](#endnote-47) Council of Europe,[[48]](#endnote-48) civil society internationally[[49]](#endnote-49) and civil society in Australia.[[50]](#endnote-50) WHO and UN bodies have also emphasised that access of oversight bodies to places of detention must be guaranteed during the pandemic,[[51]](#endnote-51) and although National Preventive Mechanisms (**NPM**s) in other countries have adapted their inspection methodology to enable continued oversight[[52]](#endnote-52) in compliance with the SPT’s advice to continue visits while observing the ‘do no harm principle’,[[53]](#endnote-53) most Australian oversight bodies have suspended inspections[[54]](#endnote-54) at a time when Aboriginal and Torres Strait Islander people are at an increased risk of torture and ill-treatment. This has impacted on Aboriginal Community Controlled Organisations’ ability to access information. For example, Change the Record has noted that it has been difficult to ‘get up to date information about the conditions in adult and youth correction facilities due to restrictions on legal and family visits and the withdrawal of independent oversight bodies and external scrutiny in many states and territories.’[[55]](#endnote-55)

Australia has ratified the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**OPCAT**), but has deferred its implementation.[[56]](#endnote-56) Thus far, in relation to the criminal legal system, NPM designations have been limited to the Commonwealth Ombudsman (the NPM coordinator and NPM responsible for inspecting Australian Federal Police cells[[57]](#endnote-57)) and the Western Australian Office of the Inspector of Custodial Services (**OICS**) (responsible for inspecting justice-related facilities in Western Australia[[58]](#endnote-58)). However, Change the Record has stated that the ‘COVID-19 pandemic presents an opportunity to… fully realise the vision of [OPCAT] regarding… best practice oversight and transparency of places of detention.’[[59]](#endnote-59)

The Select Committee submission made recommendations that ‘Federal, State and Territory Governments… urgently designate and/or establish [NPMs] as part of their response to the COVID-19 pandemic’ and that ‘Governments… engage with civil society, including Aboriginal and Torres Strait Islander organisations, in transparent, inclusive and robust consultations during this process.’[[60]](#endnote-60) It also recommended that oversight bodies be guaranteed ‘unimpeded access to all places of detention and persons detained throughout (and beyond) the duration of the COVID-19 pandemic.’[[61]](#endnote-61) The submission highlighted that oversight bodies ‘are essential not only to facilitate transparency and accountability, but to make expert recommendations that will guide the detaining authorities in improving conditions and treatment in detention, and limiting the transmission of COVID-19.’[[62]](#endnote-62) NATSILS has similarly, in two recent submissions, called for the establishment of NPMs and that oversight bodies continue to have access to all places of detention during the pandemic,[[63]](#endnote-63) as has Change the Record.[[64]](#endnote-64) While it is encouraging that the NT Government has recent announced an independent review of a serious incident at Darwin Correctional Centre,[[65]](#endnote-65) more must be done to ensure robust detention oversight across Australia.

**culturally appropriate opcat implementation**

The Special Rapporteur has identified issues that may arise include ‘[p]articipation of [I]ndigenous peoples in the elaboration of State and provincial response to the pandemic as well as implementation of programs and policies developed by [I]ndigenous programs and institutions.’ The Special Rapporteur has asked how Indigenous peoples are ‘given the possibility to shape the national COVID-19 response to ensure it does not have discriminatory effect on their communities.’

Detention oversight is an integral aspect of achieving a truly just criminal legal system for Aboriginal and Torres Strait Islander people, particularly during the pandemic. Australia must commit to establishing and/or designating NPMs that are culturally appropriate for detained Aboriginal and Torres Strait Islander people.[[66]](#endnote-66)

***aboriginal and torres strait islander consultation and participation***

Although the Commonwealth Ombudsman’s civil society Advisory Group’s recommendation that the Group should include an Aboriginal and/or Torres Strait Islander representative[[67]](#endnote-67) is commendable, this does raise concerns that Australia’s coordinating NPM failed to identify this need in the first instance. As NATSILS has recently emphasised, oversight bodies and NPMs must have ‘strong Aboriginal and Torres Strait Islander representation, including from the legal assistance services and the health sectors.’[[68]](#endnote-68) As OPCAT implementation in Australia progresses, this recommendation must be respected. NPM staff must include Aboriginal and Torres Strait Islander representation across genders and disciplines[[69]](#endnote-69) and include people with lived experience of detention.[[70]](#endnote-70) NPMs must be culturally safe workplaces for Aboriginal and Torres Strait Islander people.[[71]](#endnote-71)

For NPMs ‘to be effective, [they] must achieve legitimacy among the [Aboriginal and Torres Strait] community (which extends to those who are detained, with whom the NPM will need to engage)’.[[72]](#endnote-72) ‘[Aboriginal and Torres Strait Islander] communities and Aboriginal Community Controlled Organisations must be consulted in a transparent and inclusive process of the NPMs’ designation,’[[73]](#endnote-73) design,[[74]](#endnote-74) operations[[75]](#endnote-75) and evaluation.[[76]](#endnote-76) Additionally, once ‘Treaty/Treaties are finalised, the… NPM(s) must be responsive to the resulting obligations.’[[77]](#endnote-77) NPMs ‘must make targeted efforts to inform the [Aboriginal and Torres Strait Islander Islander] community’ of their findings and recommendations in order to not ‘perpetuat[e] [Aboriginal and Torres Strait Islander] people’s marginalisation and disempowerment in a criminal justice system that disproportionately impacts on their lives and communities.’[[78]](#endnote-78)

***aboriginal and torres strait islander worldviews, culture and law***

The Association for the Prevention of Torture (**APT**) has asserted that ‘States should systematically implement international standards with regard to the rights of [I]ndigenous persons in the context of criminal justice and detention.’[[79]](#endnote-79) NPMs must be in a position to appropriately apply international human rights law[[80]](#endnote-80) (including laws relating to the prohibition of torture[[81]](#endnote-81) and UNDRIP[[82]](#endnote-82)) to the experiences and treatment of detained Aboriginal and Torres Strait Islander people.[[83]](#endnote-83)

The APT’s advice that an inclusive approach to detention inspection involves ‘ensuring that the issues of vulnerable groups are mainstreamed into preventive work’[[84]](#endnote-84) should be consistently applied across all Australian jurisdictions, with respect to Aboriginal and Torres Strait Islander people. This requires that NPMs apply ‘a critical lens in assessing the cultural appropriateness of all aspects of conditions and treatment in detention.’[[85]](#endnote-85) In good practice, the Western Australian OICS has a set of Indigenous-specific detention standards, although it has not been revised for some time.[[86]](#endnote-86)

NPMs, as part of their preventive work, should:

* ‘consider what factors contribute to the overrepresentation of [Aboriginal and Torres Strait Islander] people in places of detention, recognising the increased risk of torture and ill-treatment of those who experience socioeconomic and sociocultural marginalisation.’[[87]](#endnote-87)
* ‘[w]hen making recommendations regarding the overrepresentation of [Aboriginal and Torres Strait Islander] people in places of detention… consider [Aboriginal and Torres Strait Islander] community-driven solutions, particularly in relation to diversion and alternatives to custodial sentences.’[[88]](#endnote-88)
* ‘highlight the importance of incorporating [Aboriginal and Torres Strait Islander] world views into legislation and policy in a meaningful way.’[[89]](#endnote-89)

NPMs should appreciate:

* ‘that an [Aboriginal and Torres Strait Islander] perspective of what constitutes torture, or cruel, inhuman or degrading treatment or punishment, may diverge from that of non-Aboriginal people. The suffering experienced by an individual, the significance that they attribute to particular conduct or a situation in detention, and their emotional response, will be determined in part by how their culture shapes their worldview.’[[90]](#endnote-90)
* ‘that [Aboriginal and Torres Strait Islander] people may experience imprisonment differently.’[[91]](#endnote-91)
* that Aboriginal and Torres Strait Islander culture is a protective factor and strength.[[92]](#endnote-92)

***racism and discrimination***

The OHCHR has noted that ‘[r]ising disparities in how COVID-19 is affecting communities, and the major disproportionate impact it is having on racial and ethnic minorities… have exposed alarming inequalities within our societies.’[[93]](#endnote-93) Public Health Association Australia has stated that ‘[i]t is indisputable that racism is a real and ever-present public health issue. Racism in Australia obviously precedes COVID-19, and has a massive continuing impact on the health and wellbeing of Aboriginal and Torres Strait Islander people.’[[94]](#endnote-94) Aboriginal and Torres Strait Islander people, communities and organisations and the Black Lives Matter movement in Australia are advocating that the criminal legal system’s systemic racism be addressed, particularly focusing on Aboriginal and Torres Strait Islander deaths in custody.[[95]](#endnote-95)

‘In order to properly assess the risk of torture or ill-treatment of [Aboriginal and Torres Strait Islander] detainees, the [NPMs] should incorporate into [their] expectations/standards an expectation that there is an absence of systemic racism at the place of detention/within the detaining authority,’[[96]](#endnote-96) and should assess whether there are discriminatory practices in places of detention.[[97]](#endnote-97) Such an approach would align with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment’s position that ‘States are under a heightened obligation to protect vulnerable persons from abuse and should interpret the torture protection framework against the background of other human rights norms, such as those developed to eliminate racial discrimination.’[[98]](#endnote-98)

***historic-political context of colonisation***

NPMs should have an understanding of how the ‘ongoing impact of colonisation on the criminal justice system’ has resulted in intergenerational trauma and shaped Aboriginal and Torres Strait Islander people’s ‘contemporary relationship to the criminal justice system.’[[99]](#endnote-99) NPMs must appreciate that ‘the long-term impact of torture and ill-treatment can be shaped by survivors’ culture and the historic-political context of the ill-treatment (including the history of colonisation).’[[100]](#endnote-100)

**(5) Identified protection gap – lack of transparency in relation to places of detention during covid-19**

The Special Rapporteur’s questionnaire asks whether the State has disaggregated data in relation to Indigenous peoples and individuals during the COVID-19 pandemic.

The OHCHR has stated that ‘[c]ollection, disaggregation and analysis of data by ethnicity or race, as well as gender, are essential to identify and address inequalities and structural discrimination that contributes to poor health outcomes, including for COVID-19.’[[101]](#endnote-101) This statement echoes the Select Committee submission recommendation that Australian Governments should ensure that data is ‘disaggregated, in relation to gender, disability status, age and ethnicity.’[[102]](#endnote-102) NATSILS has identified the need for ‘independent analysis of police stop data during the pandemic’ as essential to ‘determine whether COVID-19 related policing impacted upon certain demographics or communities disproportionately.’[[103]](#endnote-103) Danila Dilba has also identified a need for disaggregated data in relation to police stops and enforcement,[[104]](#endnote-104) as has Change the Record.[[105]](#endnote-105)

The Select Committee submission, supporting calls by WHO and UN bodies,[[106]](#endnote-106) also made a number of recommendations with regard to improved transparency of places of detention during the pandemic:

‘Federal, State and Territory Governments must provide regular, updated and accurate information to the public and to oversight bodies on its response to the COVID-19 pandemic in relation to each place of detention. Oversight bodies should publicly report on the information they receive through this process, at regular intervals, and ensure that the voices of people in places of detention are heard in this process’;

‘Federal, State and Territory Governments must not adopt unreasonable measures that will further undermine or limit existing formal and informal mechanisms of oversight and transparency.’[[107]](#endnote-107)

The Select Committee submission suggested that information provided by detaining authorities must include:

Information relating to infection prevention and control measures and contingency plans (particularly strategies, policies and data relating to use of medical isolation, quarantine and solitary confinement, staffing, testing, health provision, personal and legal visits, programs and education); information relating to COVID-19 testing and results for people in detention, staff and contractors, infection rates and number of deaths, as well as incidents such as use of force, incidents of self-harm and prison disturbances such as protests.[[108]](#endnote-108)

All of the above recommendations are supported as a means of improving the protection of the rights of detained Aboriginal and Torres Strait Islander people during the pandemic.

**endnotes**

1. Office of the High Commissioner for Human Rights, *Human Rights Dispatches: human rights issues within the context of the coronavirus pandemic*, “Human Rights Dispatch No. 2: COVID-19 and the protection of the right to life in places of detention”, accessed 6 May 2020, available at [https://www.ohchr.org/EN/Issues/Executions/Pages/HumanRightsDispatches.aspx](about:blank) [↑](#endnote-ref-1)
2. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UN Doc A/RES/70/175 (17 December 2015), Rule 24(1); See also Council of Europe, *Statement of interpretation on the right to protection of health in times of pandemic,* dated 21 April 2020, available at [https://rm.coe.int/statement-of-interpretation-on-the-right-to-protection-of-health-in-ti/16809e3640?fbclid=IwAR3RljOpFXjkn6rTr5MgMMB0f2ZqbR6uZSEvcDtAbomzkFBZ\_tMg1NORKF0](about:blank) [↑](#endnote-ref-2)
3. International Convention on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976 Art 12(1), Art 12(2)(c), Art 12(2)(d). [↑](#endnote-ref-3)
4. Wolston Correctional Centre locked down (20/04/20), available at <https://corrections.qld.gov.au/wolston-correctional-centre-locked-down/>; Queensland correctional officer tests positive for COVID-19 (25/03/20), available at <https://www.brisbanetimes.com.au/national/queensland/queensland-correctional-officer-tests-positive-for-covid-19-20200325-p54dxl.html?fbclid=IwAR1KAstbC5H4hll81Qe3xw4VQ6xE955NaozSoME5Ci2_o2iQJRmnnz506jI>; Rate of coronavirus infection slows in NSW as authorities urge public to maintain social distancing (29/03/20), available at <https://www.abc.net.au/news/2020-03-29/rate-of-nsw-coronavirus-infections-slow/12100664?fbclid=IwAR3SrDx5UCr4FYpJ71172cWbzgrOHXU-WZ-V0jz15kIuun7h7UTMkXRTRtI> [↑](#endnote-ref-4)
5. Coronavirus outbreak at Victorian psychiatric facility being investigated by health authorities (24/04/20) available at [https://www.abc.net.au/news/2020-04-24/coronavirus-outbreak-at-psychiatric-facility-in-victoria-covid19/12180212](about:blank); 'Why is it spreading?': fears for Newmarch House, the aged care home at the centre of Australia's Covid-19 crisis (02/05/20) https://www.theguardian.com/australia-news/2020/may/02/why-is-it-spreading-sydneys-newmarch-house-aged-care-home-becomes-epicentre-of-covid-19-fight [↑](#endnote-ref-5)
6. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-6)
7. Office of the High Commissioner for Human Rights, *Human Rights Dispatches: human rights issues within the context of the coronavirus pandemic*, “Human Rights Dispatch No. 2: COVID-19 and the protection of the right to life in places of detention”, accessed 6 May 2020, available at [https://www.ohchr.org/EN/Issues/Executions/Pages/HumanRightsDispatches.aspx](about:blank) [↑](#endnote-ref-7)
8. Australian Bureau of Statistics, Corrective Services, Australia, March Quarter 2020 (04/06/20), available at <https://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4512.0Main+Features1March%20Quarter%202020?OpenDocument> [↑](#endnote-ref-8)
9. 'People will continue to die': coroners' 'deaths in custody' reports ignored (31/08/18) available at [https://www.theguardian.com/australia-news/2018/aug/31/people-will-continue-to-die-coroners-deaths-in-custody-reports-ignored](about:blank) [↑](#endnote-ref-9)
10. National Aboriginal and Torres Strait Islander Legal Services, Submission to the Commonwealth Parliament’s Senate Select Committee on COVID-19 (28/05/20), available at <http://www.natsils.org.au/portals/natsils/submission/NATSILS%20Submission%20to%20the%20Senate%20Select%20Committee%20on%20COVID-19%2028%20May%202020%20F.pdf?ver=2020-05-28-113053-070> [↑](#endnote-ref-10)
11. Office of the High Commissioner for Human Rights, *Human Rights Dispatches: human rights issues within the context of the coronavirus pandemic*, “Human Rights Dispatch No. 2: COVID-19 and the protection of the right to life in places of detention”, accessed 6 May 2020, available at

    [https://www.ohchr.org/EN/Issues/Executions/Pages/HumanRightsDispatches.aspx](about:blank). See also International Committee of the Red Cross, *COVID-19: Protecting prison populations from infectious coronavirus disease*, available at [https://www.icrc.org/en/document/protecting-prison-populations-infectious-disease](about:blank) [↑](#endnote-ref-11)
12. International Committee of the Red Cross, *COVID-19: Authorities must protect health of detainees, staff and ultimately surrounding communities*, 07 April 2020, available at [https://www.icrc.org/en/document/covid-19-places-detention-must-protect-health-detainees-staff-and-ultimately-surrounding](about:blank); United Nations Office on Drugs and Crime, Position Paper, “COVID-19 preparedness and responses in prisons”, dated 31 March 2020, available at [https://www.unodc.org/documents/Advocacy-Section/UNODC\_Position\_paper\_COVID-19\_in\_prisons.pdf?fbclid=IwAR1Kl\_0vIaXp2yL3pn0i4J5ICrSna84l6rSmEUtd5zN57iInd7UBt5Adr1c](about:blank) [↑](#endnote-ref-12)
13. United Nations Office on Drugs and Crime, Position Paper, “COVID-19 preparedness and responses in prisons”, dated 31 March 2020, available at [https://www.unodc.org/documents/Advocacy-Section/UNODC\_Position\_paper\_COVID-19\_in\_prisons.pdf?fbclid=IwAR1Kl\_0vIaXp2yL3pn0i4J5ICrSna84l6rSmEUtd5zN57iInd7UBt5Adr1c](about:blank) [↑](#endnote-ref-13)
14. See, for example, Office of the High Commissioner for Human Rights, *Urgent action needed to prevent COVID-19 “rampaging through places of detention* dated 25 March 2020, available at [https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E&fbclid=IwAR1MrRlJ3J3LdKub1w3GUx2WXB4AIvpXZHoWbjCRRpY70EB\_E\_X4vZMgcvA](about:blank) [↑](#endnote-ref-14)
15. Sallie Yea, “This is why Singapore’s coronavirus cases are growing: a look inside the dismal living conditions of migrant workers”, The Conversation 30 April 2020, available at [https://theconversation.com/this-is-why-singapores-coronavirus-cases-are-growing-a-look-inside-the-dismal-living-conditions-of-migrant-workers-136959](about:blank) [↑](#endnote-ref-15)
16. See, for example, Kate Aubusson, “’Huge element of luck’: the greatest risk to eradicating coronavirus in Australia”, The Sydney Morning Herald (Online) 24 April 2020, available at https://www.smh.com.au/national/prison-nursing-home-outbreaks-and-re-importations-the-greatest-risk-to-eradicating-coronavirus-experts-20200424-p54mst.html?fbclid=IwAR33jlZ0HPnCLcIbpLjJsBlsbPrsAaA5w-lWJ64YxKgFgPb1AERmLRLSMng [↑](#endnote-ref-16)
17. NATSILS and the Australian Indigenous Doctors Association back calls for the early release of prisoners to prevent the spread of COVID-19 (01/05/20), available at [http://natsils.org.au/portals/natsils/Media%20Releases/Media%20Release%201%20May%202020%20AIDA%20and%20NATSILS%20Joint%20Endorsement.pdf?ver=2020-05-01-102715-463](about:blank) [↑](#endnote-ref-17)
18. Amy McQuire, Aboriginal community health’s success with Covid-19 (01/05/20), available at <https://www.thesaturdaypaper.com.au/news/health/2020/04/25/aboriginal-community-healths-success-with-covid-19/15877368009740>. See also National Aboriginal and Torres Strait Islander Legal Services, Submission to the Commonwealth Parliament’s Senate Select Committee on COVID-19 (28/05/20), available at <http://www.natsils.org.au/portals/natsils/submission/NATSILS%20Submission%20to%20the%20Senate%20Select%20Committee%20on%20COVID-19%2028%20May%202020%20F.pdf?ver=2020-05-28-113053-070>. [↑](#endnote-ref-18)
19. Aboriginal Peak Organisations of the Northern Territory, Submission to the Select Committee on COVID-19 Inquiry into the Government’s response to COVID-19 (04/06/20) [↑](#endnote-ref-19)
20. United Nations Human Rights Committee, Covenant on Civil and Political Rights, *Statement on derogations from the Covenant in connection with the COVID-19 pandemic (Advance Unedited Version)*, CCPR/C/128/2dated 24 April 2020, available at [https://www.ohchr.org/Documents/HRBodies/CCPR/COVIDstatement.docx?fbclid=IwAR1KFgN\_-NH1OFqm-wO38CPTxsFNnuqa7k-Sks9R-fIUG3cjhX5lco261UM](about:blank) [↑](#endnote-ref-20)
21. Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (25/03/2020), available at [https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf?fbclid=IwAR1gRVb3AegXqmqYHoIrF\_ADExsM9M3aYYdGeNVJBKcOj-ERHflbe1CTb\_8](about:blank): [↑](#endnote-ref-21)
22. World Health Organization (Europe), *Preparedness, prevention and control of COVID-19 in prisons and other places of detention* dated 15 May 2020, available at [http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/publications/2020/preparedness,-prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention,-15-march-2020](about:blank) [↑](#endnote-ref-22)
23. Inter-Agency Standing Committee (IASC - Office of the High Commissioner for Human Rights & World Health Organization), *Interim guidance on COVID-19 - Focus on persons deprived of their liberty*, dated 27 March 2020, available at [https://interagencystandingcommittee.org/system/files/2020-03/IASC%20Interim%20Guidance%20on%20COVID-19%20-%20Focus%20on%20Persons%20Deprived%20of%20Their%20Liberty.pdf?fbclid=IwAR15OxMsEUy95mbNsNIxlMB5XcpSIS5\_HEOeCyZj5X75SZx4VYiPZ195Aes](about:blank) [↑](#endnote-ref-23)
24. *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) arts 1 and 16. [↑](#endnote-ref-24)
25. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), UN Doc A/RES/70/175 (17 December 2015), Rule 45.

    United Nations Office on Drugs and Crime, Position Paper, “COVID-19 preparedness and responses in prisons”, dated 31 March 2020, available at <https://www.unodc.org/documents/Advocacy-Section/UNODC_Position_paper_COVID-19_in_prisons.pdf?fbclid=IwAR1Kl_0vIaXp2yL3pn0i4J5ICrSna84l6rSmEUtd5zN57iInd7UBt5Adr1c> [↑](#endnote-ref-25)
26. 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, UN Doc A/66/26 (5 August 2011). [↑](#endnote-ref-26)
27. Department of Health, Australian Government, *CDNA Guidelines for the prevention, control and public management of COVID-19 outbreaks in correctional and detention facilities in Australia* available at <https://www.health.gov.au/sites/default/files/documents/2020/03/cdna-guidelines-for-the-prevention-control-and-public-health-management-of-covid-19-outbreaks-in-correctional-and-detention-facilities-in-australia.pdf> [↑](#endnote-ref-27)
28. Corrections Queensland, see announcement at [https://corrections.qld.gov.au/qcs-announces-new-isolation-procedures-for-prisoners/](about:blank); Corrections Victoria, see announcement at [https://www.corrections.vic.gov.au/covid19#protective](about:blank); *COVID-19 Omnibus (Emergency Measures) Act 2020* (Vic), s 600M. See also Australian Lawyers Alliance, “VIC emergency plans for prisoners are inhumane, Bill needs careful scrutiny”, dated 22 April 2020 available at [https://www.lawyersalliance.com.au/news/vic-emergency-plans-for-prisoners-are-inhumane-bill-needs-careful-scrutiny-ala?fbclid=IwAR09JBUZKZpEHM-iYDv9KM6XV3K3bXN0n4nrgHJWwnX-QtoaQQHsy3ahHUs](about:blank); *COVID-19 Omnibus (Emergency Measures) Act 2020* (Vic), s 112O; Human Rights Law Centre, *Solitary confinement must not be used as response to COVID-19: Royal Commission told*, dated 31 March 2020 available at [https://www.hrlc.org.au/news/2020/3/31/solitary-confinement-must-not-be-used-as-response-to-covid-19-royal-commission-told?fbclid=IwAR3tTJjyYE8116eQDtoJ1zI8t5O21WUhU6oNI0V\_mMjak9L4GkywMrpNjko](about:blank); Human Rights Watch, *Coronavirus is a Ticking Time Bomb for Australia’s Prisons* (16/04/20), available at [https://www.hrw.org/news/2020/04/16/coronavirus-ticking-time-bomb-australias-prisons?fbclid=IwAR1lAQuUJTKcGSn0sxOMSQt32dXoKP\_T3km586PzTsWNx74JLCrLMw8WgMk](about:blank); Claudia Farhart, “Australian prisoners report spending up to 22 hours per day in their cells in coronavirus lockdown, SBS News (online) 1May 2020 available at [https://amp.sbs.com.au/v1/article/australian-prisoners-report-spending-up-to-22-hours-per-day-in-their-cells-in-coronavirus-lockdown/d9dae4b4-032b-48b8-95a8-e49f5537f3b3?amp=1&\_\_twitter\_impression=true&fbclid=IwAR1joD-38K7N1RsKGVwwhj9YoSW8JgSBOIhcc\_jIRNe69xy7Hjhp1aKRY5s](about:blank) [↑](#endnote-ref-28)
29. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-29)
30. Danila Dilba Health Service, Senate Select Committee on COVID-19 (28/05/20) [↑](#endnote-ref-30)
31. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-31)
32. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-32)
33. Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic 25 March 2020 available at

    [https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf?fbclid=IwAR1gRVb3AegXqmqYHoIrF\_ADExsM9M3aYYdGeNVJBKcOj-ERHflbe1CTb\_8](about:blank); United Nations, *COVID-19 and Human Rights: We are all in this together* April 2020 available at[https://www.un.org/sites/un2.un.org/files/un\_policy\_brief\_on\_human\_rights\_and\_covid\_23\_april\_2020.pdf?fbclid=IwAR0eQuqOXPGPu29GpFFdv3K1IuCsUr51HobiS-vG8pPoYpeVxC2rLzBfeio](about:blank); Office of the High Commissioner for Human Rights, *Urgent action needed to prevent COVID-19 “rampaging through places of detention* dated (25/03/20), available at [https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25745&LangID=E&fbclid=IwAR1MrRlJ3J3LdKub1w3GUx2WXB4AIvpXZHoWbjCRRpY70EB\_E\_X4vZMgcvA](about:blank); UNODC, World Health Organization, UNAIDS and Office of the High Commissioner for Human Rights, *Joint statement on COVID-19 in prisons and other closed settings* (13/05/20), available at [https://www.who.int/news-room/detail/13-05-2020-unodc-who-unaids-and-ohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings](about:blank); United Nations Office on Drugs and Crime, Position Paper, “COVID-19 preparedness and responses in prisons”, (31/03/20), available at [https://www.unodc.org/documents/Advocacy-Section/UNODC\_Position\_paper\_COVID-19\_in\_prisons.pdf?fbclid=IwAR1Kl\_0vIaXp2yL3pn0i4J5ICrSna84l6rSmEUtd5zN57iInd7UBt5Adr1c](about:blank); United Nations Office on Drugs and Crime, Position Paper, “COVID-19 preparedness and responses in prisons”, (31/03/20), available at [https://www.unodc.org/documents/Advocacy-Section/UNODC\_Position\_paper\_COVID-19\_in\_prisons.pdf?fbclid=IwAR1Kl\_0vIaXp2yL3pn0i4J5ICrSna84l6rSmEUtd5zN57iInd7UBt5Adr1c](about:blank); The Chair of the United Nations Committee on the Rights of Persons with Disabilities, on behalf of the Committee on the Rights of Persons with Disabilities and the Special Envoy of the United Nations Secretary-General on Disability and Accessibility, *Joint Statement: Persons with Disabilities and COVID-19* available at [https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx?fbclid=IwAR10gfvewlvb\_drrGXGHVBOUUZCi2PgeW8FYKrBIm9U4MQOOBT1nYeRRRM0](about:blank); Inter-Agency Standing Committee (IASC - Office of the High Commissioner for Human Rights & World Health Organization), *Interim guidance on COVID-19 - Focus on persons deprived of their liberty*, (27/03/20), available at [https://interagencystandingcommittee.org/system/files/2020-03/IASC%20Interim%20Guidance%20on%20COVID-19%20-%20Focus%20on%20Persons%20Deprived%20of%20Their%20Liberty.pdf?fbclid=IwAR15OxMsEUy95mbNsNIxlMB5XcpSIS5\_HEOeCyZj5X75SZx4VYiPZ195Aes](about:blank); World Health Organization (Europe), *Preparedness, prevention and control of COVID-19 in prisons and other places of detention* (15/03/20), available at [http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/publications/2020/preparedness,-prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention,-15-march-2020](about:blank); UNAIDS, *Rights in the time of COVID-19: Lessons from HIV for an effective, community-led response* available at <https://www.unaids.org/sites/default/files/media_asset/human-rights-and-covid-19_en.pdf>; International Committee of the Red Cross, *COVID-19: Authorities must protect health of detainees, staff and ultimately surrounding communities*, (07/04/20), available at [https://www.icrc.org/en/document/covid-19-places-detention-must-protect-health-detainees-staff-and-ultimately-surrounding](about:blank); Commissioner for human rights, Council of Europe , *COVID-19 pandemic: urgent steps are needed to protect the rights of prisoners in Europe,* (06/04/20) available at [https://www.coe.int/en/web/commissioner/-/covid-19-pandemic-urgent-steps-are-needed-to-protect-the-rights-of-prisoners-in-europe?fbclid=IwAR12qkhKv\_YPN4IM5GeFUUSAMBDGVjIsZXuSCyvNtBcQjlMwLU9oP2WSw48](about:blank). [↑](#endnote-ref-33)
34. *COVID-19 in Correctional Settings: Immediate Population Reduction Recommendations* (30/03/20) available at [https://amend.us/wp-content/uploads/2020/03/Amend-3.30.20-Population-Reduction-Guidance-for-DOCs\_COVID-19.pdf?fbclid=IwAR2TXHSmN3t1qFN8i-ZpgcHzioilmNyhVmB36pVCyIi73pJgaSAs1e8EXPE](about:blank); Amend, *How to Release People from Prison to Achieve Public Health Goals during COVID-19: Recommended Principles and Practices* (13/04/20) available at [https://amend.us/wp-content/uploads/2020/04/Public-health-focused-decarceration-guidelines-1.pdf](about:blank); Decarceration as strategy to support prisoners during COVID-19 pandemic, Opinion– (07/04/20) available at [https://www.tennessean.com/story/opinion/2020/04/07/solving-mass-incarceration-during-covid-19-outbreak/2956191001/](about:blank); *Flattening the Curve for Incarcerated Populations — Covid-19 in Jails and Prisons* (02/04/20) available at [https://www.nejm.org/doi/full/10.1056/NEJMp2005687?query=RP](about:blank); Letter by public and corrections health experts (02/04/20) available at [http://rappcampaign.com/wp-content/uploads/Public-Health-LEtter-FINAL-2020-2.pdf?fbclid=IwAR2fGEySh-Hp4dwr-HrBVk7C2LqoPpmA-3lasOn0nTHBAv8zJKkNtZxXM7g](about:blank); Physicians for criminal justice reform (US),COVID-19 Risks for Detained and Incarcerated Youth available at [https://njdc.info/wp-content/uploads/PFCJR-Statement.pdf](about:blank); *Prisons are “in no way equipped” to deal with COVID-19* (02/05/20) available at [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30984-3/fulltext](about:blank); *A public health doctor and head of corrections agree: we must immediately release people from jails and prisons* (27/03/20) available at [https://theappeal.org/a-public-health-doctor-and-head-of-corrections-agree-we-must-immediately-release-people-from-jails-and-prisons/](about:blank); *Coronavirus prompts 150 correctional health experts, medical professionals to request clemencies from Gov. Cuomo* (02/04/20) available at [https://www.nydailynews.com/coronavirus/ny-coronavirus-health-experts-request-clemencies-20200402-seekck42jbbqxldffrotpwyeje-story.html?outputType=amp&\_\_twitter\_impression=true&fbclid=IwAR39oXlAnNOc6iTnYAo6QJ9I\_cnjjrVvhEgujSl9FLutG3rsRmIPdv8VZqU](about:blank); *Doctors urge governments to release as many inmates as possible amid COVID* (Canada) (07/04/20) available at [https://www.theglobeandmail.com/canada/article-doctors-urge-governments-to-release-as-many-inmates-as-possible-amid/?utm\_medium=Referrer%3A+Social+Network+%2F+Media&utm\_campaign=Shared+Web+Article+Links&fbclid=IwAR0YgzWKiR270rZev7KZxU6BqtHJgqTxm8n6Pn0diKTe4AiXlembaxenVtM](about:blank); *Covid-19 Continues Its Toll on Jails and Prisons* (04/05/20) available at [https://www.brennancenter.org/our-work/analysis-opinion/covid-19-continues-its-toll-jails-and-prisons](about:blank). [↑](#endnote-ref-34)
35. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20) - <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-35)
36. National Aboriginal and Torres Strait Islander Legal Services, Submission to the Commonwealth Parliament’s Senate Select Committee on COVID-19 (28/05/20), available at <http://www.natsils.org.au/portals/natsils/submission/NATSILS%20Submission%20to%20the%20Senate%20Select%20Committee%20on%20COVID-19%2028%20May%202020%20F.pdf?ver=2020-05-28-113053-070> [↑](#endnote-ref-36)
37. Change the Record, Critical Condition: The impact of COVID-19 policies, policing and prions on First Nations communities (May 2020), available at <https://changetherecord.org.au/critical-condition> [↑](#endnote-ref-37)
38. Danila Dilba Health Service, Senate Select Committee on COVID-19 (28/05/20) [↑](#endnote-ref-38)
39. Australian Medical Association’s submission to the Senate Select Committee (May 2020) <https://t.co/P8FDpmjtHZ?amp=1> [↑](#endnote-ref-39)
40. Australian Medical Association’s submission to the Senate Select Committee (May 2020) <https://t.co/P8FDpmjtHZ?amp=1> [↑](#endnote-ref-40)
41. Northern Territory Government, Attorney-General and Justice. (2019). Pathways to the Northern Territory Aboriginal Justice Agreement, p.39. Available at <https://justice.nt.gov.au/__data/assets/pdf_file/0009/728163/Pathways-to-the-northern-territory-aboriginal-justice-agreement.pdf> [↑](#endnote-ref-41)
42. Northern Territory Aboriginal Justice Agreement 2019-2025. Draft Agreement for Consultation, pp.22-23. Available at <https://justice.nt.gov.au/__data/assets/pdf_file/0005/728186/Draft-northern-territory-aboriginal-justice-agreement.pdf> [↑](#endnote-ref-42)
43. Northern Territory Government, Attorney-General and Justice. (2019). Pathways to the Northern Territory Aboriginal Justice Agreement, p.39. Available at <https://justice.nt.gov.au/__data/assets/pdf_file/0009/728163/Pathways-to-the-northern-territory-aboriginal-justice-agreement.pdf> [↑](#endnote-ref-43)
44. Nils Melzer, *Seventieth anniversary of the Universal Declaration of Human Rights: reaffirming and strengthening the prohibition of torture and other cruel, inhuman or degrading treatment or punishment*, UN DocA/73/207 (20 July 2018) [66]; Association for the Prevention of Torture, *“Yes, torture prevention works”: Insights from a global research study on 30 years of torture prevention* (September 2016) 15.

    [↑](#endnote-ref-44)
45. Nils Melzer, *Seventieth anniversary of the Universal Declaration of Human Rights: reaffirming and strengthening the prohibition of torture and other cruel, inhuman or degrading treatment or punishment*, UN DocA/73/207 (20 July 2018) [63], [65]; Manfred Nowak, *Special rapporteur on the question of torture, Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms: Torture and other cruel, inhuman or degrading treatment*, UN Doc A/64/215 (3 August 2009) [40]. [↑](#endnote-ref-45)
46. Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic 25 March 2020, available at

    [https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf?fbclid=IwAR1gRVb3AegXqmqYHoIrF\_ADExsM9M3aYYdGeNVJBKcOj-ERHflbe1CTb\_8](about:blank); Office of the High Commissioner for Human Rights, Spokesperson for the UN High Commissioner for Human Rights: Rupert Colville (05/05/20), available at

    [https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25864&LangID=E&fbclid=IwAR15bCQ06iQ0e5uXrV0vZp7g96Q6vSZHeIQ0UTmBjSjR8BeXNzBcJcyz1p4](about:blank); Office of the High Commissioner for Human Rights, Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies (08/05/20), available at [https://www.ohchr.org/Documents/Issues/Detention/DeliberationNo11.pdf?fbclid=IwAR0VFlMNUTkjBgOoS3mUryULaPGJC3smiEVc4LT1rFmandBuaw9cUdmBLIE](about:blank); Office of the High Commissioner for Human Rights, Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies (08/05/20), available at [https://www.ohchr.org/Documents/Issues/Detention/DeliberationNo11.pdf?fbclid=IwAR0VFlMNUTkjBgOoS3mUryULaPGJC3smiEVc4LT1rFmandBuaw9cUdmBLIE](about:blank); UNODC, World Health Organization, UNAIDS and Office of the High Commissioner for Human Rights, *Joint statement on COVID-19 in prisons and other closed settings* (13/05/20), available at [https://www.who.int/news-room/detail/13-05-2020-unodc-who-unaids-and-ohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings](about:blank); World Health Organization, *Addressing Human Rights as Key to the COVID-19 Response* (21/04/20), available at [https://apps.who.int/iris/rest/bitstreams/1275275/retrieve](about:blank). [↑](#endnote-ref-46)
47. International Committee of the Red Cross, *COVID-19: Authorities must protect health of detainees, staff and ultimately surrounding communities* (/07/04/20) available at [https://www.icrc.org/en/document/covid-19-places-detention-must-protect-health-detainees-staff-and-ultimately-surrounding](about:blank). [↑](#endnote-ref-47)
48. Commissioner for human rights, Council of Europe, *COVID-19 pandemic: urgent steps are needed to protect the rights of prisoners in Europe,* (06/04/20) available at [https://www.coe.int/en/web/commissioner/-/covid-19-pandemic-urgent-steps-are-needed-to-protect-the-rights-of-prisoners-in-europe?fbclid=IwAR12qkhKv\_YPN4IM5GeFUUSAMBDGVjIsZXuSCyvNtBcQjlMwLU9oP2WSw48](about:blank); European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, S*tatement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic* (20/03/20) available at [https://rm.coe.int/16809cfa4b](about:blank) [↑](#endnote-ref-48)
49. Organisation Mondiale Contre la Torture ‘World Organisation Against Torture’ (OMCT), *Building our response on COVID-19 and detention - OMCT Guidance brief to the SOS-Torture Network and partner organizations* available at [https://www.omct.org/monitoring-protection-mechanisms/reports-and-publications/2020/04/d25784/](about:blank); Penal Reform International, *Coronavirus: Healthcare and human rights of people in prison* (16/03/20) available at [https://cdn.penalreform.org/wp-content/uploads/2020/03/FINAL-Briefing-Coronavirus.pdf](about:blank); Commonwealth Human Rights Initiative,*COVID-19 and Prisons in the Commonwealth - ensuring an effective response* available at [https://www.humanrightsinitiative.org/download/1586326581COVID%2019%20and%20Prisons%20in%20the%20Commonwealth.pdf](about:blank) [↑](#endnote-ref-49)
50. Change the Record, *Keeping mob safe during Covid-19* available at [https://changetherecord.org.au/covid19](about:blank). [↑](#endnote-ref-50)
51. Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (25/03/20), available at

    [https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf?fbclid=IwAR1gRVb3AegXqmqYHoIrF\_ADExsM9M3aYYdGeNVJBKcOj-ERHflbe1CTb\_8](about:blank); Office of the High Commissioner for Human Rights, Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies (08/05/20), available at [https://www.ohchr.org/Documents/Issues/Detention/DeliberationNo11.pdf?fbclid=IwAR0VFlMNUTkjBgOoS3mUryULaPGJC3smiEVc4LT1rFmandBuaw9cUdmBLIE](about:blank); Inter-Agency Standing Committee (IASC - Office of the High Commissioner for Human Rights & World Health Organization), *Interim guidance on COVID-19 - Focus on persons deprived of their liberty* (27/03/20) available at [https://interagencystandingcommittee.org/system/files/2020-03/IASC%20Interim%20Guidance%20on%20COVID-19%20-%20Focus%20on%20Persons%20Deprived%20of%20Their%20Liberty.pdf?fbclid=IwAR15OxMsEUy95mbNsNIxlMB5XcpSIS5\_HEOeCyZj5X75SZx4VYiPZ195Aes](about:blank); World Health Organization (Europe), *Preparedness, prevention and control of COVID-19 in prisons and other places of detention* (15/03/20), available at [http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/publications/2020/preparedness,-prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention,-15-march-2020](about:blank). [↑](#endnote-ref-51)
52. Her Majesty’s Inspectorate of Prisons, United Kingdom, *Alternative approach to scrutiny during the COVID-19 pandemic* available at [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/03/Short-scrutiny-visit-briefing-document-for-website.pdf](about:blank); Her Majesty’s Inspectorate of Prisons, United Kingdom, A*lternative approach to scrutiny in the women’s estate during the COVID-19 pandemic* (20/04/20) available at [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/03/Short-scrutiny-visit-briefing-document-for-womens-prisons-1.pdf](about:blank); Her Majesty’s Inspectorate of Prisons, United Kingdom, *248. Young offender institutions holding children* (07/05/20) available at[https://www.justiceinspectorates.gov.uk/hmiprisons/inspections/young-offender-institutions/](about:blank); Her Majesty’s Inspectorate of Prisons, United Kingdom, *Introduction by HM Chief Inspector of Prisons to COVID19 methodology and health and safety guidance for staff* available at [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/03/Introduction-statement\_v1.pdf](about:blank); Her Majesty’s Inspectorate of Prisons, United Kingdom, *Health and safety guidance for short scrutiny visits during the COVID-19 outbreak* available at [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/03/Short-scrutiny-visit-health-and-safety-guidance-for-website.pdf](about:blank); Her Majesty’s Inspectorate of Prisons, United Kingdom, *Addendum to the Memorandum of Understanding - between HM Inspectorate of Prisons and HM Prison and Probation Service* (April 2020) available at [https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/03/Covid-19-Addendum-to-MoU-with-HMPPS.pdf](about:blank); Prison Inspectorate Scotland, *Liaison visits framework - prisons and court custody units* (05/05/20) available at [https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/news\_attachments/HMIPS%20-%20Liaison%20Visits%20Framework%20-%20Prisons%20and%20Court%20Custody%20Units%20-%20May%202020.pdf](about:blank); Prison Inspectorate Scotland, *Remote Monitoring Framework and Liaison Visits Framework* (05/05/20) available at [https://www.prisonsinspectoratescotland.gov.uk/news/hmips-remote-monitoring-framework-and-liaison-visits-framework](about:blank); ICV, *The hidden key workers keeping custody safe* (14/04/20) available at [https://www.gloucestershire-pcc.gov.uk/the-hidden-key-workers-keeping-custody-safe/?fbclid=IwAR0rG03BBwCCK2f\_5FP4gluezx\_jyXXT93\_gOnlDZSbY9Dmnqb3YnEss\_X8](about:blank); ICVA, *COVID19 Update from Chief Executive* (11/05/20) available at [https://icva.org.uk/covid19-update-from-chief-executive/](about:blank); ICVA, *Guest blog - Using technology to continue monitoring – Warwickshire OPCC* (17/04/20) available at[https://icva.org.uk/guest-blog-using-technology-to-continue-monitoring-warwickshire-opcc/](about:blank); Voices from the field - Italian NPM4 May 2020 available at- [https://vimeo.com/414735213?ref=tw-share](about:blank); New Zealand Ombudsman, *OPCAT inspections and visits during COVID-19 pandemic – update and Statement of Principles* (09/04/20) available at [https://www.ombudsman.parliament.nz/sites/default/files/2020-04/OPCAT%20inspections%20and%20visits%20during%20COVID-19%20pandemic%20%E2%80%93%20update%20and%20Statement%20of%20Principles\_0.pdf?fbclid=IwAR3gf-Xk8lmDLtpfNpVg-2NWB4VDuA\_lYcL54EMW-\_XfV0ThK8\_9X5\_eC20](about:blank); New Zealand Ombudsman, *Chief Ombudsman re-sets inspections of prisons* (29/04/20) available at [https://www.lawsociety.org.nz/news-and-communications/latest-news/news/chief-ombudsman-re-sets-inspections-of-prisons](about:blank); New Zealand Ombudsman, *Chief Ombudsman continues to monitor treatment of detainees* (02/04/20) available a [https://www.ombudsman.parliament.nz/news/chief-ombudsman-continues-monitor-treatment-detainees](about:blank). [↑](#endnote-ref-52)
53. Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (25/03/20) available at

    [https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf?fbclid=IwAR1gRVb3AegXqmqYHoIrF\_ADExsM9M3aYYdGeNVJBKcOj-ERHflbe1CTb\_8](about:blank). See also Association for the Prevention of Torture, *COVID-19 in prison* (12/03/20) available at [https://apt.ch/en/blog/COVID-19-in-prison/](about:blank); Association for the Prevention of Torture, *The Principle of "Do No Harm" & Detention Monitoring : From Theory to Practice* - *Part 1* (24/04/20) available at [https://apt-geneva.buzzsprout.com/1038085/3489730](about:blank); Association for the Prevention of Torture, *The Principle of "Do No Harm" & Detention Monitoring : From Theory to Practice - Part 2* (11/05/20) available at [https://lnkd.in/dyykRYD](about:blank); Association for the Prevention of Torture, *Monitoring deprivation of liberty in times of COVID-19: insights from webinar series* (08/04/20) available at [https://www.apt.ch/en/news\_on\_prevention/monitoring-deprivation-of-liberty-in-times-of-covid-19-insights-from-webinar-series/](about:blank). [↑](#endnote-ref-53)
54. Office of the Inspector of Custodial Services (OICS), Western Australia Government, *Our response to COVID-19* (20/04/20) available at [https://www.oics.wa.gov.au/about-oics/our-response-to-covid-19/?doing\_wp\_cron=1587878076.0483300685882568359375&fbclid=IwAR15\_7LElnbkXIitKMRmSTY-Z9FKDASf8gVW\_6SsQRnXKdH9\_HC2HhBAuqM](about:blank); Inspector of Custodial Services, NSW Government, *Inspector of Custodial Services COVID-19 plan* available at [http://www.custodialinspector.justice.nsw.gov.au/Documents/Inspector\_of\_Custodial\_Services\_COVID-19\_plan.pdf?fbclid=IwAR3jXw8sPijffhDGO4aOEYnCsEPeOT7CIEr5r1eAt-E5Xnb5I8BWtmXgMOM](about:blank); Inspector of Custodial Services, ACT Government, *COVID-19* (30/04/20) available at [https://www.ics.act.gov.au/latest-news/articles/covid-19](about:blank); Update by Penny Wright to the Australian OPCAT Network (14/05/20). [↑](#endnote-ref-54)
55. Change the Record, Critical Condition: The impact of COVID-19 policies, policing and prions on First Nations communities (May 2020), available at <https://changetherecord.org.au/critical-condition> [↑](#endnote-ref-55)
56. *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) Art 24; *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) Declarations and Reservations: Australia. [↑](#endnote-ref-56)
57. Commonwealth Ombudsman, Monitoring places of detention – OPCAT, available at [https://www.ombudsman.gov.au/what-we-do/monitoring-places-of-detention-opcat](about:blank) [↑](#endnote-ref-57)
58. Commonwealth Ombudsman, *Implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) Baseline Assessment of Australia’s OPCAT readiness* (September 2019) available at [https://www.ombudsman.gov.au/\_\_data/assets/pdf\_file/0025/106657/Ombudsman-Report-Implementation-of-OPCAT.pdf](about:blank) [↑](#endnote-ref-58)
59. Change the Record, Critical Condition: The impact of COVID-19 policies, policing and prions on First Nations communities (May 2020), available at <https://changetherecord.org.au/critical-condition> [↑](#endnote-ref-59)
60. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-60)
61. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-61)
62. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-62)
63. National Aboriginal and Torres Strait Islander Legal Services, Submission to the Commonwealth Parliament’s Senate Select Committee on COVID-19 (28/05/20), available at <http://www.natsils.org.au/portals/natsils/submission/NATSILS%20Submission%20to%20the%20Senate%20Select%20Committee%20on%20COVID-19%2028%20May%202020%20F.pdf?ver=2020-05-28-113053-070>; National Aboriginal and Torres Strait Islander Legal Services, Submission to the Disability Royal Commission’s Criminal Justice Issues Paper (May 2020), available at <http://www.natsils.org.au/portals/natsils/submission/7%20May%202020%20NATSILS%20Submission%20to%20the%20DRC%20Legal%20System%20Issues%20Paper%20.pdf?ver=2020-05-21-112341-680&timestamp=1590024324968> [↑](#endnote-ref-63)
64. Change the Record, Critical Condition: The impact of COVID-19 policies, policing and prions on First Nations communities (May 2020), available at <https://changetherecord.org.au/critical-condition> [↑](#endnote-ref-64)
65. Attorney-General and Minister for Justice. (12/06/20). Independent Reviewer Appointed: Darwin Correctional Centre [Media Release]. Available at <http://newsroom.nt.gov.au/mediaRelease/33394>   [↑](#endnote-ref-65)
66. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf>, Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-66)
67. Email update to OPCAT Network (29/05/20) [↑](#endnote-ref-67)
68. National Aboriginal and Torres Strait Islander Legal Services, Submission to the Commonwealth Parliament’s Senate Select Committee on COVID-19 (28/05/20), available at <http://www.natsils.org.au/portals/natsils/submission/NATSILS%20Submission%20to%20the%20Senate%20Select%20Committee%20on%20COVID-19%2028%20May%202020%20F.pdf?ver=2020-05-28-113053-070> [↑](#endnote-ref-68)
69. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-69)
70. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-70)
71. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-71)
72. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-72)
73. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-73)
74. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-74)
75. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-75)
76. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-76)
77. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-77)
78. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-78)
79. Association for the Prevention of Torture, *Preventing torture, a shared responsibility: Regional Forum on the OPCAT in Latin America Outcome Report* (2014) 65.

    [↑](#endnote-ref-79)
80. Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Analytical assessment tool for national preventive mechanisms*, UN Doc CAT/OP/1/Rev.1 (25 January 2016) [31]; Rachel Murray, Elina Steinerte, Malcolm Evans, and Antenor Hallo de Wolf, ‘The Role of NPMs’ in *The Optional Protocol to the UN Convention Against Torture* (Oxford University Press 2011) 137-138; Australian Human Rights Commission, *OPCAT in Australia Interim Report to the Commonwealth Attorney-General* (September 2017) 29-30; Her Majesty’s Inspectorate of Prisons Scotland, *Standards for Inspecting and Monitoring Prisons in Scotland: Introduction* (May 2018) 4. [↑](#endnote-ref-80)
81. *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 2, Art 16(1); *Universal Declaration of Human Rights*, GA Res 217A (III) UN GAOR 3rd see, 183rd plen mtg, UN Doc A/810 (10 December 1948) Article 5; *Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, UN GAOR, 13th sess, UN Doc A/RES/3452(XXX) (9 December 1975) Art 2, Art 3; *Standard Minimum Rules for the Treatment of Prisoners*, GA Res 70/175, UN GAOR, 70th sess, Agenda Item 106, UN Doc A/RES/70/175 (17 December 2015) Rule 1; *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, GA Res 43/173, UN GAOR, 49th sess, 76th plen mtg, Supp.No.49, UN Doc A/43/49 (9 December 1988) Principle 6; *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 26 June 1987) Art 7; *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) Art 37(a); *Code of Conduct for Law Enforcement Officials*, GA Res 34/169, UN GAOR, 34th sess, 106th plen mtg, UN Doc A/RES/34/169 (5 February 1980) Art 5. [↑](#endnote-ref-81)
82. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-82)
83. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz>; Camille Giffard, *The Torture Reporting Handbook* (Human Rights Centre, University of Essex 2000) 12, 14.

    [↑](#endnote-ref-83)
84. Association for the Prevention of Torture, *The Global Forum on OPCAT, Preventing Torture, Upholding Dignity: From Pledges to Actions, Outcome Report* (2012) 10-11. [↑](#endnote-ref-84)
85. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-85)
86. Western Australia Office of the Inspector of Custodial Services, *Inspection Standards For Aboriginal Prisoners* (July 2008). [↑](#endnote-ref-86)
87. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-87)
88. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-88)
89. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-89)
90. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-90)
91. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-91)
92. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-92)
93. OHCHR - Disproportionate impact of COVID-19 on racial and ethnic minorities needs to be urgently addressed – Bachelet (02/06/20), available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25916&LangID=E&mc_cid=dbd15841a9&mc_eid=491e0ba29c> [↑](#endnote-ref-93)
94. Public Health Association Australia - Black Lives Matter protest should proceed safely (12/06/20), available at <https://www.phaa.net.au/documents/item/4603> [↑](#endnote-ref-94)
95. Black Lives Matter rallies held across Australia to protest against mistreatment and deaths of Indigenous people (06/06/20), available at <https://www.abc.net.au/news/2020-06-06/black-lives-matter-rallies-held-across-australia/12325442>. See also: 400 deaths, zero convictions: Australia's national shame (29/05/20), available at <https://www.mamamia.com.au/aboriginal-deaths-in-custody/>; Aboriginal deaths in custody: 434 have died since 1991, new data shows (06/06/20) , available at<https://www.theguardian.com/australia-news/2020/jun/06/aboriginal-deaths-in-custody-434-have-died-since-1991-new-data-shows>; Aboriginal Lives Matter and the language of protest (04/06/20), available at <https://www.abc.net.au/radionational/programs/lifematters/aboriginal-lives-matter-and-the-language-of-protest/12317934>; Thalia Anthony - ‘I can’t breathe!’ Australia must look in the mirror to see our own deaths in custody (02/06/20), available at <https://theconversation.com/i-cant-breathe-australia-must-look-in-the-mirror-to-see-our-own-deaths-in-custody-139848>; Australian Human Rights Commission - Calls to end Indigenous deaths in custody (03/06/20), available at <https://humanrights.gov.au/about/news/calls-end-indigenous-deaths-custody>; Australians rally in support of US cities protesting George Floyd's death (02/06/20), available at <https://www.abc.net.au/radio/adelaide/programs/am/australians-rally-in-support-of-us-prostests-over-police-death/12310206>; Australia’s own Black Lives Matter movement (05/06/20), available at <http://thewire.org.au/story/australias-own-black-lives-matter-movement/>; Brooke Boney, All lives matter, but some more than others (04/06/20), available at <https://www.smh.com.au/national/all-lives-matter-but-some-more-than-others-20200603-p54z5t.html>; Briggs Shares Powerful Statement On George Floyd And Australia’s Racist History (01/06/20), available at <https://junkee.com/briggs-statement-george-floyd/255787>; Calls to expand Indigenous circle sentencing after success in Walgett and Dubbo (31/05/20), available at <https://amp.abc.net.au/article/12307750?__twitter_impression=true&fbclid=IwAR176PAGTrCpOwRZmKEXD7AEFh0ekhlGqxVRni8s_koI5BGqBIziXOUIt08>; Criminal justice system 'inherently racist' towards Aboriginal people (06/06/20), available at <https://amp.smh.com.au/national/nsw/criminal-justice-system-inherently-racist-towards-aboriginal-people-20200605-p5500l.html?__twitter_impression=true>; Joshua Creamer, Why so many black deaths in custody and so little justice? (03/06/20), available at <https://indigenousx.com.au/why-so-many-black-deaths-in-custody-and-so-little-justice/>; ‘Deaths in our backyard’: 432 Indigenous Australians have died in custody since 1991 (01/06/20), available at <https://amp.theguardian.com/australia-news/2020/jun/01/deaths-in-our-backyard-432-indigenous-australians-have-died-in-custody-since-2008?CMP=share_btn_tw&__twitter_impression=true>; Family of David Dungay, who died in custody, express solidarity with family of George Floyd (01/06/20), available at <https://amp.theguardian.com/australia-news/2020/jun/01/family-of-david-dungay-who-died-in-custody-express-solidarity-with-family-of-george-floyd?CMP=share_btn_tw&__twitter_impression=true>; George Floyd death in custody highlights Australia's 'shameful' record (02/06/20), available at <https://amp.theage.com.au/national/victoria/george-floyd-death-in-custody-highlights-australia-s-shameful-record-20200602-p54ytv.html?__twitter_impression=true>; George Floyd protests reignite anger in Australia over treatment of Indigenous women in custody (05/06/20), available at <https://amp.abc.net.au/article/12319734?__twitter_impression=true>; George Floyd's death brings back trauma for family of Aboriginal man who died in custody (01/06/20), available at <https://www.abc.net.au/news/2020-06-01/david-dungays-family-traumatised-by-death-of-george-floyd/12307414?utm_source=sfmc&utm_medium=email&utm_content=&utm_campaign=%5bnews_sfmc_newsmail_pm_df_!n1%5d%3a8935&user_id=a746aabe09f06679327c35dcdc8942ca08df3348359797908bf0c0d2b8440f26&WT.tsrc=email&WT.mc_id=Email%7c%5bnews_sfmc_newsmail_pm_df_!n1%5d%7c8935ABCNewsmail_topstories_articlelink>; Here are the practical ways you can support Aboriginal Lives Matter (01/06/20), available at <https://www.abc.net.au/triplej/programs/hack/practical-ways-you-can-support-aboriginal-lives-matter/12308386>; Here and in America, we must end Black deaths in custody (02/06/20) - <https://www.hrlc.org.au/news/2020/6/2/here-and-in-america-we-must-end-black-deaths-in-custody>; ‘I can't breathe': Indigenous rallies planned in solidarity with George Floyd (01/06/20), available at <https://www.sbs.com.au/nitv/article/2020/06/01/i-cant-breathe-indigenous-rallies-planned-solidarity-george-floyd>; Indigenous families stand in solidarity with US protestors (01/06/20), available at <https://www.abc.net.au/radio/programs/pm/indigenous-families-stand-in-solidarity-with-us-protestors/12309202>; Indigenous people incarcerated at more than 10 times the rate of the general population: ABS (04/06/20), available at <https://www.smh.com.au/national/nsw/indigenous-people-incarcerated-at-more-than-10-times-the-rate-of-the-general-population-abs-20200604-p54zoa.html>; Lawyers must be activists to help end black deaths in custody (04/06/20), available at <https://www.lawyersweekly.com.au/politics/28514-lawyers-must-be-activists-to-help-end-black-deaths-in-custody>; Celeste Liddle, Australia still turns a blind eye to Aboriginal people dying in police custody (02/06/20), available at <https://amp.theguardian.com/commentisfree/2020/jun/02/australia-still-turns-a-blind-eye-to-aboriginal-people-dying-in-police-custody?CMP=share_btn_tw&__twitter_impression=true>; Amy McQuire, ‘There cannot be 432 victims and no perpetrators…’ (05/06/20), available at <https://www.thesaturdaypaper.com.au/news/law-crime/2020/06/06/there-cannot-be-432-victims-and-no-perpetrators/15913656009926>; Amy McQuire, We must bear witness to black deaths in our own country (30/05/20), available at <https://amymcquire.substack.com/p/we-must-bear-witness-to-black-deaths>; Hayden Moon, Australia Must Stop Turning A Blind Eye To Our Own Black Deaths (01/06/20), available at <https://junkee.com/black-deaths-in-custody-australia/255785>; Stop Black Deaths in Custody - an interview with Gomeroi activist Gwenda Stanley (03/06/20), available at <https://www.sydneycriminallawyers.com.au/blog/stop-black-deaths-in-custody-an-interview-with-gomeroi-activist-gwenda-stanley/>; ‘The video of George Floyd took me back to when I saw my uncle’s death’ (31/05/20), available at <https://www.solidarity.net.au/highlights/the-video-of-george-floyd-took-me-back-to-when-i-saw-my-uncles-death/?fbclid=IwAR35KdQ-rIaehUHqAD429Eh5upFNOV8Y5CDOWCArdTej1LnIxnBcnSrQFiE>; 'The world is waking up': Perth joins global protests against police brutality (01/06/20), available at <https://amp.sbs.com.au/v1/article/the-world-is-waking-up-perth-joins-global-protests-against-police-brutality/e06d73f8-31b7-4016-96bb-e10221a898b6?amp=1&__twitter_impression=true>; Time to end jailing for unpaid fines (28/05/20), available at <https://nit.com.au/time-to-end-jailing-for-unpaid-fines/>; 'We feel their pain and stand with them': Aboriginal activists send message of support to George Floyd protesters (31/05/20), available at <https://amp.sbs.com.au/v1/article/we-feel-their-pain-and-stand-with-them-aboriginal-activists-send-message-of-support-to-george-floyd-protesters/6ed1f0d8-8eca-487a-8a2d-ebe4ce47db56?amp=1&__twitter_impression=true>; We've lost hundreds of lives and had a royal commission. So what will it take to stop Indigenous deaths in custody? (06/06/20), available at <https://amp.abc.net.au/article/12325286?__twitter_impression=true>; Alison Whittaker, Despite 432 Indigenous deaths in custody, no one has ever been convicted. Racist silence and complicity are to blame (03/06/20), available at <https://theconversation.com/amp/despite-432-indigenous-deaths-in-custody-no-one-has-ever-been-convicted-racist-silence-and-complicity-are-to-blame-139873>; Why It’s Pure Ignorance To Think The US Protests Against Systemic Racism Are An ‘America Problem’ (02/06/20), available at <https://www.pedestrian.tv/news/indigenous-deaths-in-custody/>; Why so defensive? The Australian ego is fragile on the question of racism (07/06/20), available at https://www.smh.com.au/politics/federal/why-so-defensive-the-australian-ego-is-fragile-on-the-question-of-racism-20200605-p54zyn.html [↑](#endnote-ref-95)
96. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz>; Commonwealth, Royal Commission into Aboriginal Deaths in Custody, *National Report* (1991) vol 5; Chris Cuneen, ‘Indigenous Incarceration: The Violence of Colonial Law and Justice’ in P. Scraton and J. McCulloch (eds), *The Violence of Incarceration* (Routledge Taylor and Francis Group, 2009) 209-211; Australian Children’s Commissioners and Guardians, *Statement on conditions and treatment in youth justice detention* (November 2017) 9; Australian Law Reform Commission, *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples Final Report*, Report No 133 (2017) 79. [↑](#endnote-ref-96)
97. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz>; Commonwealth, Royal Commission into Aboriginal Deaths in Custody, *National Report* (1991) vol 5; Chris Cuneen, ‘Indigenous Incarceration: The Violence of Colonial Law and Justice’ in P. Scraton and J. McCulloch (eds), *The Violence of Incarceration* (Routledge Taylor and Francis Group, 2009) 209-211; Australian Children’s Commissioners and Guardians, *Statement on conditions and treatment in youth justice detention* (November 2017) 9; Australian Law Reform Commission, *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples Final Report*, Report No 133 (2017) 79. [↑](#endnote-ref-97)
98. Nils Melzer, *Seventieth anniversary of the Universal Declaration of Human Rights: reaffirming and strengthening the prohibition of torture and other cruel, inhuman or degrading treatment or punishment*, UN DocA/73/207 (20 July 2018) [16]. [↑](#endnote-ref-98)
99. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-99)
100. Andreea Lachsz, Culturally appropriate oversight of conditions of detention and treatment of detained Aboriginal and Torres Strait Islander people in the Northern Territory’s criminal justice system – in compliance with the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (December 2019), available at <https://www.churchilltrust.com.au/fellows/detail/4318/Andreea+Lachsz> [↑](#endnote-ref-100)
101. OHCHR - Disproportionate impact of COVID-19 on racial and ethnic minorities needs to be urgently addressed – Bachelet (02/06/20), available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25916&LangID=E&mc_cid=dbd15841a9&mc_eid=491e0ba29c> [↑](#endnote-ref-101)
102. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-102)
103. National Aboriginal and Torres Strait Islander Legal Services, Submission to the Commonwealth Parliament’s Senate Select Committee on COVID-19 (28/05/20), available at <http://www.natsils.org.au/portals/natsils/submission/NATSILS%20Submission%20to%20the%20Senate%20Select%20Committee%20on%20COVID-19%2028%20May%202020%20F.pdf?ver=2020-05-28-113053-070> [↑](#endnote-ref-103)
104. Danila Dilba Health Service, Senate Select Committee on COVID-19 (28/05/20) [↑](#endnote-ref-104)
105. Change the Record, Critical Condition: The impact of COVID-19 policies, policing and prions on First Nations communities (May 2020), available at <https://changetherecord.org.au/critical-condition> [↑](#endnote-ref-105)
106. Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (25/03/20), available at [https://www.ohchr.org/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf?fbclid=IwAR1gRVb3AegXqmqYHoIrF\_ADExsM9M3aYYdGeNVJBKcOj-ERHflbe1CTb\_8](about:blank); UNODC, World Health Organization, UNAIDS and Office of the High Commissioner for Human Rights, *Joint statement on COVID-19 in prisons and other closed settings* (13/05/20), available at [https://www.who.int/news-room/detail/13-05-2020-unodc-who-unaids-and-ohchr-joint-statement-on-covid-19-in-prisons-and-other-closed-settings](about:blank); World Health Organization (Europe), *Preparedness, prevention and control of COVID-19 in prisons and other places of detention* (15/05/20), available at [http://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/publications/2020/preparedness,-prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention,-15-march-2020](about:blank). [↑](#endnote-ref-106)
107. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-107)
108. OPCAT, places of detention and COVID-19: Joint submission to the Select Committee on COVID-19: Pre-Committee Version (27/05/20), available at <https://www.hrlc.org.au/s/COVID-19-OPCAT-places-of-detention-and-COVID-19-Pre-Committee-Version.pdf> [↑](#endnote-ref-108)