

Minimum national safeguards for children in youth justice

Youthlaw submission to the inquiry into Australia's youth justice and incarceration system

We welcome the opportunity to contribute to the Inquiry into Australia's youth justice and incarceration system conducted by the Senate Legal and Constitutional Affairs References Committee. The recommendations presented in this submission are based on our experience advocating for young people who are often harmed by the Australian youth justice and incarceration system that fails to uphold young people's human rights.

Youthlaw is Victoria's specialist statewide legal service for people under 25 experiencing disadvantage, homelessness, family violence and mistreatment. Our vision is a just and equitable society shaped by young people, with a focus on unmet legal needs and systemic justice issues.

Recommendations

In this submission we recommend that the Australian Government:

1. Take legislative action to ensure national minimum standards for youth justice.
2. Legislate that the minimum age of criminal responsibility in Australia is raised to 14 years.
3. Legislate that the minimum age of youth detention be raised to 16 years and prohibit detention of children except as a last resort.
4. Prohibit solitary confinement, electronic monitoring, strip searches and spithoods for children.
5. Invest in community-based alternatives for young children at risk of the criminal justice system.
6. Ensure children in youth prisons have consistent access to high-quality education and vocational training programs tailored to their needs.
7. Prohibit the detention of children in adult prisons.

1. Legislate national minimum standards to uphold Australia's human rights obligations

Recommendation 1: Youthlaw recommends that the Australian Government take legislative action to ensure national minimum standards for youth justice.

Currently, Australia is not meeting its obligations under the *United Nations Convention on the Rights of the Child (CRC)*¹ and the *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)*² when it comes to upholding children's human rights in youth justice systems across the country. The Australian Government as a signatory to international human rights treaties must take accountability for violations of children's rights – including by state and territory governments – and ensure children are treated with dignity and respect when deprived of their liberty by the state.

Under the Constitution, the Australian Government has the power to legislate to implement measures to comply with its human rights obligations under treaties it has ratified, including areas generally managed by states and territories.³ Legislative action to ensure national minimum standards is not only permissible but critical to fulfil Australia's international commitments under the CRC and OPCAT.

We draw attention to Yoorrook for Justice report recommendation 41 which recommends that the Victorian Government, in cooperation with the Australian Government, take all necessary legislative, administrative or other steps to designate an independent body or bodies to perform the functions of the National Preventive Mechanism of monitoring the State's compliance with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment in places of detention.

2. Raise the minimum age of criminal responsibility to 14

Recommendation 2: Youthlaw recommends the Australian Government raise the minimum age of criminal responsibility across Australia to 14 years.

The current minimum age of legal responsibility across Australia harms children. It is discriminatory, out of step with human rights standards and medical science on child development. In Victoria, the minimum age of criminal responsibility was increased in 2024 from 10 to 12 years of age, but the Victorian Government has ruled out increasing it to 14 years. The Australian Government should use its constitutional authority to establish a minimum age of 14 years for criminal responsibility across all jurisdictions. Youthlaw endorses this recommendation which is also reflected in the Yoorrook for Justice report at recommendation 35.

The UN Human Rights Council⁴ and UN Human Rights Committee⁵ have both recommended that Australia raise the minimum age of criminal responsibility to at least 14 years, to be in line with the CRC, international norms and expert advice.⁶⁷ The UN Committee on the Elimination of Racial Discrimination (CERD)⁸ also expressed concern over the disproportionate effects that the low minimum age of criminal responsibility has on Aboriginal and Torres Strait Islander children, with the UN Special Rapporteur on the Rights of Indigenous Peoples stating that Indigenous children are being detained in high security facilities as punishment for being poor.⁹ Both the UN Human Rights Council and the UN Human Rights Committee have, recommended that Australia raise the minimum age of criminal responsibility to at least 14 years. The current age of criminal responsibility is most Australian jurisdictions is out-of-step with medical evidence which shows that the human brain undergoes significant structural and functional development throughout adolescence and into early adulthood, particularly in regions governing executive function, impulse control, and risk assessment.¹⁰ This developmental trajectory, which continues into the early twenties,¹¹ is a sound medical basis for treating children differently from adult in relation to criminal culpability.¹²

Raising the age of criminal responsibility to 14 Australia wide would be a foundational national minimum standard, that would ensure that Australia remains consistent with its international obligations. The minimum age of criminal responsibility must be 14 years of age, with no exceptions, in line with medical evidence and international human rights standards. Any laws which lower the age of criminal responsibility must not include new police powers which expose children under 14 to unnecessary police contact, risk re-criminalisation or undermine the intent of these reforms.

3. Increase youth detention to 16 and enshrine imprisonment of children as a last resort

Recommendation 3: Youthlaw recommends the Australian Government legislate that the minimum age of youth detention be raised to 16 years and to prohibit detention of children except as a last resort.

Criminalisation and incarceration are damaging for children and ineffective at preventing crime. The negative impact on children when they come into contact with the criminal legal system – particularly children locked in youth prisons – as well as their families and society, is profound. The Yoorrook for Justice report outlines evidence of significant and detrimental impacts for children locked away in youth prisons, separated from protective factors and supports in their schools, families and communities. This is particularly significant as across Australia, Aboriginal and Torres Strait Islander children are jailed 20 times more than non-Aboriginal children, and make up over half of all children in Australian jails.

The Yoorrook Justice Commission and UN Child Rights Committee have both recommended that children under 16 should not be deprived of their liberty.

Last year, the Queensland Government removed the principles of detention and remand as a last resort for youth offenders, meaning that more children will be incarcerated. The Victorian Government recently passed youth justice sentencing reforms that remove the presumption against imprisonment as a last resort for children. Article 40(3)(b) of the CRC relevantly provides judicial proceedings should be avoided where possible, and only as a last resort in a manner appropriate to the child's well-being and proportionate both to their circumstances and the offence.¹³ Imprisoning children perpetuates disadvantage and is not a real or cost-effective solution to youth offending. The Australian Government has a critical role to play in setting minimum standards across all jurisdictions to prohibit imprisoning children under 16 years of age and ensuring detention of children is a last resort, to ensure Australia meets its international human rights obligations.

4. Prohibit solitary confinement, electronic monitoring, strip searches and spit hoods for children

Recommendation 4: Youthlaw recommends that the Australian Government prohibit the use of solitary confinement, electronic monitoring, strip searches and spit hoods for children.

Last year, the Victorian Government prohibited the use of solitary confinement and spit hoods for children in the *Youth Justice Act 2024* (Vic). This was in response to Yoorrook Justice Commission report recommendation 44, and Youthlaw considers that the Australian Government should adopt this recommendation for application at a Federal level. The Australian Government should prohibit the use of solitary confinement across all states and territories. This minimum safeguard would prevent avoidable Aboriginal deaths in custody, including the tragic death in custody of 16 year old Cleveland Dodd at the Banksia youth detention centre in 2023.

However, the *Youth Justice Act 2024* (Vic) also introduced a 2-year trial of electronic monitoring for children aged 14 to 17 years of age.¹⁴ Similarly, the Queensland Government introduced electronic monitoring as part of its “crackdown on youth crime.”¹⁵ Electronic monitoring interferes with children’s rights to privacy and family as protected under article 16 of the CRC, and fails to uphold

the dignity and worth of children as outlined in article 40(1) of the CRC.¹⁶ Electronic monitoring is not compatible with a rights-based approach to youth justice and fail to support children's rehabilitation and recovery.

The use of electronic monitoring is rapidly growing with a reported increase of 150% over the past 3 years.¹⁷ This growth is unsurprising as States and Territories expand the use of EM in youth criminal justice settings despite growing concerns about the negative impact it has on young people's wellbeing and rights. The expansion has occurred even as evidence shows that electronic monitoring fails to deliver genuine rehabilitative outcomes, often leading to increased stress and social isolation.¹⁸ It is broadly understood as a dehumanising, stigmatising and an ineffective form of punishment.¹⁹

Youthlaw is concerned that electronic monitoring as a condition of bail increases the risk of incarceration for children even in cases when the original offence was minor and not likely to attract a custodial sentence.²⁰ This heightened risk arises because it is not difficult for a child to unintentionally breach electronic monitoring related bail conditions.

Youthlaw endorses the Yoorrook Justice Commission recommendations in this area, in particular recommendation 40 which would require the Victorian Government to expressly prohibit routine strip searching in all Victorian youth justice centres.

5. Invest in community-based early intervention and prevention

Recommendation 5: Youthlaw recommends the Australian Government invest in community-based early intervention and prevention programs.

Youthlaw recommends that the Australian Government prioritise funding for community-based early intervention and prevention to divert children away from criminal legal systems and youth detention.²¹ Despite compelling evidence in support of alternative 'smart justice' and restorative justice models, the Australian Government has not invested in coordinated action to implement these evidence-based approaches to reducing youth crime. We endorse the recommendations in the Yoorrook for Justice report around early intervention, in particular recommendation 8. This recommendation would see substantial investment in Aboriginal Community Controlled Organisations with respect to prevention to keep First Peoples children out of child protection and out of home care.

Data from 2023–2024 confirms that young people from the lowest socio-economic areas were six times more likely to be subject to supervision, including youth justice supervision, community-based supervision and in detention.²² The overrepresentation of disadvantaged young people in youth prisons highlights how poverty itself is increasingly being criminalised, with social and economic hardship leading to higher rates of contact with the criminal justice system. For example, one quarter of young people on remand in Victoria come from Victoria's 16 poorest suburbs (which represents 2.6% of the state's postcodes).²³

The following Youthlaw client stories highlight the importance of Australian Government investment in Youthlaw's wraparound legal and social supports for young people.

MASON'S STORY – 18 YEARS OLD CARE LEAVER SUPPORTED TO STAY SAFE AND BE HEARD AT COURT

Mason came to Youthlaw as a victim-survivor of serious family violence, carrying the trauma of past interactions that left lasting scars. Mason had a lifetime of reasons to mistrust new adults and services in his life and was reluctant to engage with yet another service. Over time, through consistent and trauma-informed support, Mason developed a strong sense of trust with Youthlaw lawyers through our Legal Pod program.

We helped Mason to deal with an urgent family violence intervention order, helping them to stabilise immediate safety concerns while empowering Mason to understand their rights and, importantly, ensuring voice was amplified and respected at court. We also supported Mason to navigate interactions with police officers and prosecutors, making sure they felt genuinely heard and supported through a stressful legal process.

Mason's case underscores the critical role of integrated legal and non-legal support for care leavers facing intersecting challenges. It demonstrates how building trust through holistic service delivery can repair broken relationships with systems and restore a young person's confidence to seek out and engage with necessary support.

YALA'S STORY – SUPPORT TOWARDS STABLE HOUSING AND AWAY FROM CRIMINALISATION AND FINANCIAL STRESS

19 year old Yala was referred to Youthlaw by her AOD worker from Ballarat Community Health. Yala was facing serious criminal offences after she was charged by Victoria Police when trying to escape family violence from her ex partner. The police officers who attended the incident listened to her ex-partner's account and misidentified Yala as a perpetrator of family violence. Facing serious criminal penalties and a criminal record, Youthlaw intervened.

Our lawyer negotiated with Victoria Police to withdraw the charges against Yala, and alongside Yala's allied health workers, we convinced Victoria Police to protect Yala by putting a family violence protection order in place. We helped Yala to be connected with a team of legal and health professionals working together and sharing information provided to them with Yala's consent, sparing her from repeatedly being retraumatised by retelling her story. This collaboration enabled us to work together to support Yala to find stable housing and waive thousands of dollars in unpaid debts that were hanging over her head and causing her financial stress.

There are also useful international and evidence-based models to guide Australian Government policymaking in youth justice:

- Scotland's youth justice model de-centres incarceration and positions young people as agents of change.²⁴ Scotland has successfully closed its youth prisons for children under 18 and reduced imprisonment for 18-25 year olds by 75% between 2010 and 2023.²⁵ This whole of government approach leverages community engagement, multi-agency partnerships and early intervention through Youth Management Units that consider the child's circumstances and diverts them towards care agencies.

- Spain's Diagrama model also takes a holistic approach, balancing mental health and behavioural changes, substance-use treatment, mentorship, access to education and vocational training, 70% of young people continue education or secure employment within six months of leaving Diagrama facilities,²⁶ with only 13.6% recidivism over six years.²⁷
- The Victorian Government's Youth Crime Prevention Grants for intensive case management²⁸ resulted in "lower rates of offending after exiting the program."²⁹ 69% of young people who finished these programs achieved their goals.³⁰ Despite the Victorian Government's positive evaluations of youth crime prevention grants, funding for community crime prevention programs was reduced by 46% from the previous financial year.³¹

The Australian Government should prioritise First Nations led responses for Aboriginal and Torres Strait Islander children for Aboriginal communities to self-determine programs that work to support young mob. While Youthlaw supports the idea of exploring and implementing the alternative models in Scotland and Spain, it is imperative that it is approached in Australian jurisdictions through a prioritisation of First Nation justice. The call for locally-led First Nations solution to youth offending has been a very longstanding and consistent recommendation across various federal inquiries and reports over decades.³²

6. Ensure children can access education in youth prisons

Recommendation 6: Youthlaw recommends that the Australian Government ensure children in youth prisons have consistent access to high-quality education and vocational training programs tailored to their needs.

Education plays an essential role as a protective factor against youth justice involvement.³³ While children continue to be incarcerated, the education they receive while in youth prisons must be consistent with the education they would be able to access in the community, as a key factor in supporting community reintegration and reducing reoffending.

Australia has obligations under article 28 of the CRC to ensure children in youth detention's right to education and educational programs, including vocational information and training, is upheld.³⁴ The UN Rules for the Protection of Juveniles Deprived of their Liberty (**Havana Rules**) require that education be tailored to each young person's needs and abilities, including those with learning challenges, and focus on preparing them for reintegration.³⁵ Education should occur in community schools or, at minimum, be delivered by qualified teachers through programs integrated with the national education system to ensure continuity after release. In addition, to the Havana Rules, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (**Beijing Rules**) also make clear that the objective of training and treatment of young people placed in detention is to provide education and vocational skills, with a view to assisting them to assume socially constructive and productive roles in society.³⁶

Yet, despite these international obligations, it has consistently been highlighted, for example in the 2017 Northern Territory Royal Commission³⁷ and the 2017 Victorian Commission for Children and Young People's Inquiry³⁸ how across Australia the delivery of education in detention facilities remains inconsistent, but consistently below expected minimum standards.

7. Prohibit the detention of children in adult prisons

Recommendation 7: Youthlaw recommends that the Australian Government prohibits the detention of children in adult prisons.

In Victoria and other states and territories across the country, children under the age of 18 can be transferred to adult prisons. The Victorian Youth Justice Act continues to allow children to be detained in adult prisons. The transfer of 16 and 17 year old children to adult prisons is inconsistent with protections afforded to children under CRC for every child deprived of their liberty to be separated from adults.

We draw attention to the Supreme Court's ruling in 2016 that the Victorian Government's establishment of a youth justice centre in the Barwon maximum security adult prison was unlawful and in breach of the *Charter of Human Rights and Responsibilities Act 2006* (Vic).³⁹ The Court highlighted that there was a heightened risk of mental health problems for young people in adult prison, and that the Minister had failed to consider this in establishing the centre.

This recommendation is reflected in the Yoorrook Justice Commission report at recommendation 35. Youthlaw endorses this recommendation and urges the Australian Government should adopt it at a national level.

For more information, contact:

Lee Carnie (they/them)
CEO, Youthlaw
[REDACTED]

¹ *United Nations Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) ('CRC').

² *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).

³ *Australian Constitution* s 51(xxix); *Commonwealth v Tasmania* (1983) 158 CLR 1, [30] (Brennan J) ('Tasmanian Dam Case').

⁴ 'UN Review Highlights Need for Australia to Raise the Age of Criminal Responsibility', Human Rights Law Centre (Web Page, 20 January 2021) <<https://www.hrlc.org.au/news/2021-1-20-un-review-highlights-need-for-aust-to-raise-the-age-criminal-responsibility>>.

⁵ 'Australia: Children Suffering Under Criminal Legal System', *Human Rights Watch* (Web Page, 26 May 2025) <<https://www.hrw.org/news/2025/05/26/australia-children-suffering-under-criminal-legal-system>>.

⁶ 'UN Review Highlights Need for Australia to Raise the Age of Criminal Responsibility', Human Rights Law Centre (Web Page, 20 January 2021) <<https://www.hrlc.org.au/news/2021-1-20-un-review-highlights-need-for-aust-to-raise-the-age-criminal-responsibility>>.

⁷ 'Australia: Children Suffering Under Criminal Legal System', *Human Rights Watch* (Web Page, 26 May 2025) <<https://www.hrw.org/news/2025/05/26/australia-children-suffering-under-criminal-legal-system>>.

⁸ United Nations Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Eighteenth to Twentieth Periodic Reports of Australia*, UN Doc: CERD/C/AUS/CO/18-20 (26 December 2017) [14].

⁹ United Nations General Assembly, *Report of the Special Rapporteur on the Rights of Indigenous Peoples on Her Visit to Australia*, UN Doc A/HRC/36/46/Add.2 (8 August 2017) [75]-[77].

¹⁰ 'Juvenile Justice & the Adolescent Brain, Centre for Law, Brain & Behavior (Web Page, 2019) <<https://clbb.mgh.harvard.edu/juvenilejustice/>>.

¹¹ 'Adolescent Neurodevelopment and the Implications for the Criminal Justice System' *University of Toronto* (Web Page, April 2023) <https://socialwork.utoronto.ca/wp-content/uploads/2023/04/Policy-Bench-Lit-Synthesis-Adolescents_Justice-System-Final-web.pdf> (explaining that executive function and self-regulation mature into the mid-twenties) p 47.

¹² Elizabeth Cauffman and Laurence Steinberg, 'Maturity of Judgment in Adolescence: Psychosocial Factors in Adolescent Decision Making' (1996) 20(3) *Law and Human Behaviour* 249, 258-262 (discussing risk-taking and sensation-seeking behaviours linked to brain development).

¹³ *Ibid* art 40(3)(b).

¹⁴ Minister for Planning (Vic), 'Electronic Monitoring To Keep Bailed Youth On Track' (Media Release 250422, 22 April 2025).

¹⁴ *Ibid*.

¹⁵ Minister for Police and Corrective Services and Minister for Fire and Emergency Services (Qld), 'GPS devices to tackle juvenile crime' (Media Release, 14 May 2021).

¹⁶ *Ibid* art 40(1).

¹⁷ Miles Herbert, 'Fears Australia being turned 'into a prison' after surge in electronic monitoring of offenders' *The Guardian* (online, 1 September 2019) <[Fears Australia being turned 'into a prison' after surge in electronic monitoring of offenders | Crime - Australia | The Guardian](https://www.theguardian.com/crime/2019/sep/01/fears-australia-being-turned-into-a-prison-after-surge-in-electronic-monitoring-of-offenders)>.

¹⁸ Lacey Schaefer and Gemma Williams, *A Literature Scan of the Effectiveness of Electronic Monitoring with Community-Supervised Offenders* (Griffith Criminology Institute, Griffith University, December 2019) <<https://research-repository.griffith.edu.au/server/api/core/bitstreams/fa73ae1b-b34d-4114-9354-4a023e37a8e3/content>>.

¹⁹ *Ibid*.

²⁰ FARE, 'Electronic Monitoring (including for Alcohol-Related Offences): An evidence brief' (2021) <[FARE Evidence-Brief Electronic Monitoring-Attachment-3.pdf](https://www.fare.org.au/evidence-brief-electronic-monitoring-attachment-3.pdf)>.

²¹ Youthlaw, Submission No. 81 to the Senate Legal and Constitutional Affairs Committee's inquiry into Australia's youth justice and incarceration system, 10 October 2024, p. 2.

²² Australian Institute of Health and Welfare, Youth justice in Australia 2023–25, AIHW, March 2025 <[Youth justice in Australia 2023–24, Socioeconomic area - Australian Institute of Health and Welfare](https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-2023-25)>.

²³ Dr Matthew Ericson and Professor Tony Vinson, *Young people on remand in Victoria: Balancing individual and community interests*, Jesuit Social Services, Richmond, 2010.

²⁴ Murray Lee, Mark Halsey, Asher Flynn 'Streets of Menace: constructing and deconstructing gangs in two Australian cities' (2011) 11:5 Onati Socio-Legal Series 1114, 1125. <https://researchmgt.monash.edu/ws/portalfiles/portal/376015256/351882353_oa.pdf>

²⁵ Kieran Rooney, 'Scot-Free: How Scotland Emptied Its Jails of Youths' *The Age* (Online, 2 October 2024) <<https://www.theage.com.au/national/victoria/scot-free-how-scotland-emptied-its-jails-of-youths-20241002-p5kfc3.html>>.

²⁶ 'Transforming Youth Justice in Australia', Justicehub (Web Page) <[Diagrama](#)>.

²⁷ Cited in: Margaret White AO and Mindy Sotiri, 'Youth crime solutions are staring Crisafulli in face', *Justice Reform Initiative* (Online, 2 October 2024) <[Youth crime solutions are staring Crisafulli in face - Justice Reform Initiative | Jailing Is Failing](#)>.

²⁸ Justice and Community Safety, Victorian State Government, *Youth Crime Prevention Grants Program Evaluation: Final Report (Evidence and Insights, 7 March 2022)*, p. 9 <[Youth Crime Prevention Grants Program Evaluation Final Report March 2022 .pdf](#)>.

²⁹ Justice and Community Safety, Victorian State Government, *Youth Crime Prevention Grants Program Evaluation: Final Report (Evidence and Insights, 7 March 2022)*, p. 9 <[Youth Crime Prevention Grants Program Evaluation Final Report March 2022 .pdf](#)>.

³⁰ *Ibid*. p. 25.

³¹ See: Victoria, *Budget Paper No 3: Service Delivery 2024/25* (Treasurer of Victoria, 2024), p. 152 <[2024-25 Service Delivery](#)>, 'Labor cuts youth crime prevention programs', *Liberal Victoria* (Media Statement, 16 September 2025) <[Labor cuts youth crime prevention programs - Liberal Victoria](#)> and Benita Kolovos, 'Youth crime prevention programs face axe as Victorian government funding dwindle', *The Guardian* (Online, 20 March 2025) <[Youth crime prevention programs face axe as Victorian government funding dwindle | Victorian politics | The Guardian](#)>.

³² See for example: Senate Legal and Constitutional Affairs References Committee, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia* (Report, June 2013), Joint Standing Committee on Migration, *No One Teaches You to Become an Australian: Report of the Inquiry into Migrant Settlement Outcomes* (Report, Parliament of the Commonwealth of Australia, December 2017) and Australian Law Reform Commission, *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (Report No 133, Australian Law Reform Commission, December 2017) tabled March 2018.

³³ Senate Legal and Constitutional Affairs References Committee, *Australia's youth justice and incarceration system*, Interim Report, Parliament of Australia, February 2025, Chapter 2 <[Australia's youth justice and incarceration system](#)>.

³⁴ Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990), article 28 and United Nations General Assembly, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)*, GA Res 45/113, UN GAOR, 45th sess, Supp No 49, UN Doc A/RES/45/113 (14 December 1990), rules 38 & 39. See also, United Nations General Assembly, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)*, GA Res 40/33, UN GAOR, 40th sess, 96th plen mtg, Agenda Item 98, UN Doc A/RES/40/33 (29 November 1985), rules 1.2 and 26.1.

³⁵ Havana Rules, rule 38.

³⁶ United Nations General Assembly, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)*, GA Res 40/33, UN GAOR, 40th sess, 96th plen mtg, Agenda Item 98, UN Doc A/RES/40/33 (29 November 1985), rules 1.2 and 26.1.

³⁷ Royal Commission into the Protection and Detention of Children in the Northern Territory, Final Report (2017), Volume 2A, Chapter 16 <[Royal Commission - Volume 2A](#)>.

³⁸ Commission for Children and Young People, *The same four walls: inquiry into the use of isolation, separation and lockdowns in the Victorian youth justice system* (Melbourne: Commission for Children and Young People, 2017) <[The-Same-Four-Walls1.pdf](#)>.

³⁹ Certain Children by their Litigation Guardian Sister Marie Brigid Arthur v Minister for Families and Children [2016] VSC 796 (21 December 2016).