

International Covenant on Civil and Political Rights

Appendices
 to Australia’s Sixth Report
 to the United Nations Human Rights Committee

# Appendix A: List of issues prior to the submission of the sixth periodic report of Australia (CCPR/C/AUS/6), adopted by the Committee at its 106th session (15 October – November 2012)

## General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please provide detailed information on any significant developments in the legal and institutional framework within which human rights are promoted and protected at the national level that have taken place since the previous periodic report, including any relevant case law. Please also provide information on measures adopted to disseminate the Covenant among judges, lawyers and prosecutors.

2. Please provide information on significant political and administrative measures taken since the previous report to promote and protect human rights under the Covenant, and the resources allocated thereto, their means, objectives and results.

3. Please provide any other information on new measures taken to disseminate and implement the Committee’s previous recommendations (CCPR/C/AUS/CO/5), including any necessary statistical data.

# Specific information on the implementation of articles 1 to 27 of the Covenant, including with regard to the Committee’s previous recommendations

## Constitutional and legal framework within which the Covenant is implemented, right to an effective remedy (art. 2)

4. In the light of the State party’s decision not to incorporate the Covenant into domestic law, how is it ensured that the provisions of the Covenant are effectively implemented at the domestic level and that victims have an effective remedy for violations of their rights under the Covenant? Please also indicate the measures taken to establish a mechanism to consistently ensure the compatibility of domestic law, at all levels of government, with the Covenant.

5. Please indicate whether the State party envisages withdrawing its reservations to the Covenant. If not, please explain why it does not intend to do so and how the reservation to article 20 is compatible with the object and purpose of the Covenant.

6. In the light of the Committee’s previous concluding observations (CCPR/C/AUS/CO/5, para. 10), please indicate what measures and mechanisms are in place to implement and ensure compliance with the Committee’s Views under the first Optional Protocol to the Covenant.

## Counterterrorism measures and respect for rights guaranteed in the Covenant (arts. 2, 7, 9, 14 and 26)

7. In the light of the Committee’s previous recommendations (CCPR/C/AUS/CO/5, para. 11), and the State party’s follow-up responses (CCPR/C/AUS/CO/5/Add.1, Add.2 and Add.3), please provide information on the specific legislative measures taken to ensure that Australia’s counter-terrorism legislation and practices are in full conformity with the provisions of the Covenant, especially articles 9 and 14. Please include updated information addressing the doubts expressed in the 2011 annual report of the Independent National Security Legislation Monitor concerning the need for the seven-day detention period, any relevant recommendations in his forthcoming 2012 report, and the outcome of the review by the Council of Australian Governments.

8. What are the safeguards preventing the use of evidence obtained under torture or other cruel, inhuman or degrading treatment? What are the mechanisms in place to investigate allegations of torture in the context of counter-terrorism measures, bring perpetrators to justice and provide reparation to the victims?

## Equality and non-discrimination (arts. 2 and 26)

9. Please provide information on the measures taken to adopt federal legislation, covering all grounds of discrimination by all relevant actors as envisaged by the Covenant, and to provide comprehensive protection of the rights to equality and non-discrimination. Please explain the gaps that exist in current anti-discrimination law, and how the proposed federal legislation would address them. What recent efforts have been made to strengthen the mechanisms available to provide effective remedies against discrimination and to promote substantive equality?

## Violence against women (arts. 2, 3, 7 and 26)

10. In the light of the Committee’s previous recommendations (CCPR/C/AUS/CO/5, para. 17), and the State party’s follow-up responses (CCPR/C/AUS/CO/5/Add.1, Add.2 and Add.3), please provide updated information on the legislative, administrative and other measures taken towards the elimination of all forms of violence against women, especially perpetrated against indigenous women and women with disabilities. Additionally, please provide updated information on the availability and adequacy of legal and social services for women victims of domestic violence and sexual assault, especially in rural and remote areas.

11. Please provide information on whether sterilization of women and girls, including those with disabilities, without their informed and free consent, continues to be practiced, and on steps taken to adopt legislation prohibiting such sterilizations.

## Right to life and prohibition of torture and of other cruel, inhuman or degrading treatment or punishment, rights of non-citizens (arts. 3, 6, 7, 9 and 13)

12. In the light of the Committee’s concluding observations (CCPR/C/AUS/CO/5, paras. 19 and 20), please provide information on the measures to ensure that individuals are not extradited or otherwise returned to a country where there are substantial grounds for believing that they are at risk of being arbitrarily deprived of life or being tortured or subjected to other cruel, inhuman or degrading treatment or punishment. What steps does the State party take to monitor the safety of individuals once they are extradited or returned on the basis of diplomatic assurances? Please also explain how the transferring of asylum seekers to third countries for the processing of their claims is consistent with the State party’s obligations under the Covenant, most significantly non-refoulement obligations.

13. In the light of the Committee’s concluding observations (CCPR/C/AUS/CO/5, para. 21), please inform the Committee on the steps taken by the State party to regulate use of force, including both lethal and non-lethal force, by law enforcement officials, particularly against groups such as indigenous people, racial minorities, persons with disabilities and young people. What are the mechanisms available to carry out independent investigations of complaints concerning excessive use of force by law enforcement officials and to provide access to effective remedies for police misconduct?

14. Please explain whether the State party plans to reform or abolish the system of mandatory detention without individualized determination of necessity in cases of illegal entry. Please also provide information concerning: (a) applicable time limits for detention of migrants; (b) whether the State party is considering amending the Migration Act 1958 to ensure that stateless persons and persons who cannot be deported or removed to their country of origin are not indefinitely detained; (c) the legal, administrative and procedural safeguards to ensure that no children are held, on the basis of their migratory status, in detention or detention-like facilities, including in “excised offshore” detention facilities, and that unaccompanied children are provided with special protection and assistance.

15. Please describe any steps taken: (a) to repeal the provisions of the Migration Act 1958 relating to “excised offshore places,” and to close the Christmas Island detention centre; and (b) to ensure that all irregular migrants, including those held “offshore”, have equal access to fair and judicially reviewable determinations of their applications for protection.

## Elimination of slavery and servitude (art. 8)

16. Please provide updated information on measures taken: (a) to increase efforts to train officers to proactively identify and respond to trafficking in persons cases; (b) to assist and protect victims of trafficking regardless of their participation or otherwise in criminal proceedings against perpetrators (Permanent Witness Protection (Trafficking) visas); and (c) to provide reparation to victims. What are the measures taken by the State party to ensure that victims of trafficking, including children, are not arrested, subjected to lengthy jail terms and deported for breach of migration regulations?

## Treatment of persons deprived of their liberty, independence of the judiciary and fair trial (arts. 2, 9, 10 and 14)

17. Please provide the Committee with information on measures taken to: (a) address the disproportionately high rate of incarceration of indigenous men and women and indigenous juveniles; (b) improve prison conditions; and (c) provide access to appropriate mental health care for prisoners experiencing mental illness. Please also provide information on the availability of independent external mechanisms for monitoring and inspecting prisons and places of detention, both federal and non-federal, and on the mechanisms in place to ensure that all deaths in custody are reviewed and investigated by independent bodies. Please include information on measures taken to adopt non-custodial measures and diversion programmes and review of relevant criminal laws (particularly the use of mandatory sentencing).

18. What steps have been taken to review the system of preventive detention of convicted prisoners beyond the length of their sentences, on grounds of predicted dangerousness, in order to repeal it or to reform it in a manner consistent with the Covenant?

19. In the light of the Committee’s concluding observations (CCPR/C/AUS/CO/5, para. 25), please provide information on measures taken: (a) to ensure equality in access to justice, by providing adequate services to assist marginalized and disadvantaged people, especially those detained in remote locations; (b) to strengthen funding for Aboriginal and Torres Strait Islander legal aid; and (c) to improve access to culturally appropriate legal assistance services for all indigenous people, including interpretation and translation services.

## Protection of the rights of children (arts. 7 and 24)

20. Please provide updated information on the State party’s juvenile justice system and policies, concerning steps taken: (a) to increase the age of criminal responsibility from 10 years; (b) to ensure that children in conflict with the law are accommodated in child-appropriate facilities that are separated from adult detainees; (c) to abolish mandatory sentences for children; (d) to facilitate the re-integration of juvenile offenders; and (e) to establish an independent mechanism to monitor compliance of juvenile detention facilities with the rights enshrined in the Covenant. Additionally, please explain which measures have been taken to improve the situation of homeless children.

## Discrimination and incitement to discrimination, hostility or violence (arts. 20 and 26)

21. In the light of the Committee’s concluding observations (CCPR/C/AUS/CO/5, para. 26), and its general comment No. 34 (2011) on the freedoms of opinion and expression, please provide updated information on measures taken to combat cases of discrimination against persons because of their ethnic, racial, cultural, religious or linguistic background, which has reportedly been an increasing issue for Arab and Muslim Australians, newly arrived immigrants, especially from Africa, and also for international students, particularly from India. What are the remedies available against those who incite discrimination or violence on racial, ethnic or religious grounds? Are any additional measures envisaged against such incitement? Please provide information on relevant statistical data concerning reported discriminatory acts, disaggregated to the extent possible on the basis of gender, religion and country of origin of the victims or targets.

## Equality and non-discrimination, right to participate in public life and the protection of rights of persons belonging to ethnic minorities (arts. 2, 25, 26 and 27)

22. Please explain: (a) any legislative provisions disqualifying persons from voting on the basis of disability, and how they are consistent with the Covenant; and (b) how the State party’s legislation regarding compulsory voting operates in practice, and how it is consistent with the Covenant.

23. Please provide information on the measures taken to ensure effective consultation with indigenous peoples in decision-making in areas having an impact on their rights, including measures taken to develop the technical capacity of indigenous people to ensure their effective participation in decision-making processes. In particular, please provide information on measures taken to improve indigenous participation in decision-making relating to traditional sites and objects, including the management of their lands in the allocation of land for mining and for nuclear waste disposal.

24. Please respond to concerns expressed by, among others, the Australian Human Rights Commission, that the Stronger Futures in the Northern Territory Act 2012 was adopted without adequate consultation with the affected communities, and that it continues or strengthens restrictive features of the former Northern Territory Emergency Response that are discriminatory on their face or in effect, and that cannot be justified as temporary special measures. Please provide updated and disaggregated information on the implementation of these special restrictions in the Northern Territory.

25. In the light of the Committee’s concluding observations (CCPR/C/AUS/CO/5, paras. 15 and 16) please provide information on the steps taken to review and reform, in consultation with Aboriginal and Torres Strait Islander peoples, the Native Title Act 1993 (Cth), particularly concerning provisions establishing the high standard of proof required to demonstrate ongoing connection with the land. Please also provide updated information on measures taken to ensure that adequate reparation is provided to victims of the stolen generations or stolen wages policies.

# Appendix B: Further Information addressing The Committee’s concluding observations in CCPR/C/AUS/CO/5 (p. 3, paragraph 11)

## Definition of terrorist act

The terrorist offences are based on the concept of a ‘terrorist act’. This term is defined in section 100.1 of the Criminal Code. Australia notes the Committee’s previous concluding observations that the definition is “vague”. Australia considers that the definition is appropriately limited to conduct that is indisputably terrorism. Australia considers that the definition appropriately targets the distinguishing characteristics of terrorism, namely, the combination of intention, motivation, and means. In addition, the definition expressly excludes non-violent advocacy. These requirements must effectively be proven as elements of the terrorist offence and, as such, they attract the criminal standard of proof. They operate cumulatively with the various fault elements applicable to the terrorist offences in Part 5.3 of the Code. Prosecutions of such offences confirm that the definition has not presented difficulties in practice.

## Burden of proof in respect of terrorist offences

A small number of provisions in Part 5.3 of the Code establish offence-specific defences which impose an evidential burden on the defendant. In order to rely on one of these offence-specific defences, the defendant must produce evidence which suggests a reasonable possibility that the relevant matters specified in the defence exist. Following this, the prosecution must refute the defence beyond a reasonable doubt. Two provisions impose a legal burden of proof on the defendant, which means that he or she must positively prove the relevant matters on the balance of probabilities. While these provisions depart from the general principle that the burden of proof is borne by the prosecution, they concern matters which are peculiarly within the knowledge of the defendant, with the result that evidence is readily available to the defendant and not the prosecution. It is an established principle of Australian criminal law that it is appropriate to cast a burden on the defendant in these circumstances.

## Presumption against bail

The *Crimes Act 1914* (Cth) establishes a presumption against the granting of bail for persons charged with terrorist offences, unless the court is satisfied there are exceptional circumstances. The presumption reflects the serious nature of terrorist offences and the need to ensure public safety. As judicial discretion to determine bail applications is preserved, the presumption against bail is not an automatic obstacle to the granting of bail. For example in December 2012, in the case of *R v Karabegovic*, Magistrates’ Court of Victoria (11 December 2012), the Magistrates Court of Victoria granted bail to a person charged with a terrorist offence.

# Appendix C: Key initiatives of the National Plan to Reduce Violence against Women and their Children 2010-2022

1. Support communities to prevent, respond to and speak out against violence, through local government, businesses, community and sporting groups, schools and key institutions.

2. Improve media engagement on violence against women and their children, and the representation of women experiencing violence, at a national and local level.

3. Take the next step to reduce violence against women and their children by promoting gender equality across a range of spheres, including women’s economic independence and leadership.

4. Support young people through The Line campaign and by addressing issues relating to the sexualisation of children.

5. Build on the findings of the respectful relationships evaluation, to strengthen the design and delivery of respectful relationship programmes, and implement them more broadly.

6. Incorporate respectful relationships education into the national curriculum.

7. Enhance online safety for children and young people.

8. Meet the needs of Indigenous women and their children through improving access to information and resources, and providing avenues for advocacy and leadership.

9. Improve outcomes for Indigenous Australians through building community safety.

10. Gain a better understanding of ‘what works’ in improving Indigenous community safety.

11. Work with culturally and linguistically diverse communities to reduce violence and support women and their children, particularly those who can be most vulnerable.

12. Deliver awareness raising, training and prevention activities and responses to violence that are tailored to meet the needs of women with disability, based on outcomes from the Stop the Violence project, as well as continuing to build the evidence base.

13. Continue building first stop support for women and their children experiencing violence, based on ‘what works’, and develop national standards for telephone and online counselling services.

14. Strengthen systems and service integration to ensure that specialist responses for identifying and responding to violence against women and their children are supported and effective, including through:

a. collaborative models of service delivery; and

b. information sharing protocols and risk assessment tools.

15. Strengthen systems integration and service delivery models, including in remote and cross-border contexts, to meet the specific needs of Indigenous women and their children experiencing violence.

16. Build support for children who have experienced, witnessed or been exposed to violence.

17. Improve information sharing across court processes.

18. Implement a national scheme for family and domestic violence protection orders.

19. Drive continuous improvement in systems through reviewing of domestic and family violence-related deaths and child deaths.

20. Continue to strengthen pro-active policing, highlighting and building on good practice.

21. Improve the evidence base on perpetrator interventions, with a focus on reducing recidivism and a better understanding of high risk groups.

22. Finalise and set national outcome standards for best practice perpetrator interventions.

23. Build capacity to implement national outcome standards for perpetrator interventions and improve the quality and quantity of perpetrator interventions.

24. Expand the quality and quantity of national research on violence against women and their children through the implementation of the National Research Agenda.

25. Measure the prevalence of violence against women and their children and community attitudes towards violence through national surveys.

26. Build the National Data Collection and Reporting Framework.

# Appendix D: Various legislative, administrative and other measures taken towards the elimination of all forms of violence against women

*The National Plan to Reduce Violence against Women and their Children 2010-2022*

Key Initiatives under the National Plan, include:

* Our Watch: a primary prevention organisation which aims to drive cultural and attitudinal change to prevent violence against women and their children.
* Australia’s National Research Organisation for Women’s Safety: a national research body to bring together, for the first time, research on domestic and family violence and sexual assault across the country.
* The Line: a social marketing campaign, which aims to engage young Australians to discuss respectful relationship behaviour to support changes to attitudes and behaviours that contribute to violence.
* White Ribbon: a primary prevention campaign that works with men and boys to take positive action to create change.
* 1800RESPECT: a national, professional online and telephone counselling service to assist individuals who have experienced or are at risk of domestic and family violence, and/ or sexual assault. The Australian Government is currently funding 1800RESPECT to develop the only national App in Australia which focuses on connecting women experiencing gendered violence to services in their state and local area. The App, called DAISY, includes service listings for specialist sexual assault, family and domestic violence services, as well as services that specialise in working with Indigenous women, CALD women and women with disability. The Government is also funding 1800RESPECT to develop a range of resources and content which improve the accessibility and cultural appropriateness of the service.
* National Domestic Violence Order Information Sharing System: a national system, currently being developed, to strengthen the identification and enforcement of Domestic Violence Orders across state and territory borders.
* The National Data Collection and Reporting Framework: a frameworkthat will work with existing national data collected from state and territory systems and lay the foundation for building a common language and a coordinated and consolidated approach to data collection.
* The Personal Safety Survey: a survey that measures the prevalence of violence in Australia. The most recent survey was undertaken in 2012 and will be conducted again in 2016, for release in 2017.
* The National Survey on Community Attitudes Towards Violence Against Women: a survey that measures community attitudes around gender equality and violence against women and their children, in order to effect long-term change. The survey was last conducted in 2013 and will be conducted again in 2017 for release in 2018.

*Forced Marriage*

The Australian Government is committed to addressing forced marriage, which is a practice that has a disproportionate impact on women and girls. In February 2013, the Australian Parliament amended the Commonwealth *Criminal Code Act 1995* to criminalise forced marriage. To support the implementation of the forced marriage offences, the Australian Government announced almost $500,000 funding for three specialist NGOs to prevent and address forced marriage in March 2014. The Australian Government has also developed a Forced Marriage Community Pack in consultation with civil society to provide information and resources for people in, or at risk of a forced marriage, government agencies, service providers, community organisations and the general public. The Forced Marriage Community Pack was released on 2 December 2014.

*Legal Framework and Services*

In addition to the legal services discussed in paragraph 90 of Australia’s Report, There have been other important tools developed to assist the family law system address family violence including:

* a family violence and risk screening tool, called DOORS (Detection of Overall Risk Screening), and
* the ‘AVERT’ Family Violence Training Package to improve levels of understanding about the dynamics of family violence and the handling of family violence cases amongst lawyers, judicial officers, counsellors and other professionals working in the family law system.

The Australian and New South Wales Law Reform Commissions examined family law, family violence laws and legal frameworks to improve the safety of victims of family violence across Australian jurisdictions, including the Commonwealth. The report known as the Australian Law Reform Commission 114 and New South Wales Law Reform Commission 128 Report ‘Family Violence – A National Legal Response’, released in November 2010, provides a detailed analysis of the Australian legal system’s capacity to address family violence. The report made 186 recommendations. A Commonwealth response to the report in June 2013 noted that many of the recommendations of the report had been implemented.

A further 24 recommendations in the report were responded to in a National Response. This response noted the work that has been undertaken by jurisdictions in this area since the commissioning of the report, including under the *National Plan to Reduce Violence Against Women and their Children 2010 – 2022.*

***States and Territories – Victoria as an example***

The *Family Violence Protection Act 2008* (Vic) has recently undergone several amendments including:

* expanding the family violence safety notice system by extending the period of operation of notices from 72 hours to five working days, and allowing police to issue notices at any time of the day on any day of the week (rather than only when the court is closed),
* removing the sunset provisions for counselling order provisions and creating a mechanism to enable additional venues of the Magistrates’ Court to be empowered to make counselling orders,
* creating new indictable offences for particularly heinous or persistent contraventions of family violence safety notices and family violence intervention orders, and
* enabling adult victims of family violence, or another person with their consent, to publish reports about contraventions of family violence safety notices or family violence intervention orders (without the need to obtain a publication order from the court).

In December 2014, the Victorian Government announced the establishment of Australia’s first Royal Commission into Family Violence. The Royal Commission will investigate the entire family violence system, including government and non-government organisations, courts, prosecutors, police, corrections and child protection. Its focus will be on preventing family violence, increasing early intervention, improving victim support, making perpetrators accountable, and helping agencies better coordinate their response.

In addition, Victoria’s Action Plan to Address Violence Against Women and Children “*Everyone has a Responsibility”* was released in October 2012. It outlines a whole‑of‑government approach to reduce family violence and sexual assault against women and children. The Government is committed to delivering the Action Plan, and recently announced funding for a further 1,000 places in behavioural change programs. These programs will help to prevent family violence occurring by breaking the cycle of violence and reducing recidivism.

The *Koori Community Safety Grants Program*, funded in 2012 under the Community Crime Prevention Program, is part of the Victorian Government’s Reducing Violence against Women and their Children Grants Program. The Program provided $2.4 million grants support to projects that prevent violence in Koori (local Indigenous) communities, especially in relation to its effect on women and children.

Under *Aboriginal Justice Agreement 3 - Strong Culture, Strong Peoples, Strong Families: Towards a Safer Future for Indigenous Families and Communities*, funding is provided to the Aboriginal Family Violence Prevention and Legal Service for two positions, including a Child Protection Solicitor and a Family Violence Solicitor, both to support victims of family violence and sexual assault, and to represent Koori clients accessing the Koori Family Violence Court Support Program. Additionally, the Department of Justice and Regulation provides funding for the ‘Sister’s Day Out Workshops’. These workshops engage with Koori women for the purpose of preventing family violence by facilitating community networks to reduce social isolation, raising awareness of family violence and its underlying cause and impacts, and by providing information and tools to promote community safety.

# Appendix E: Australia’s Immigration System

*Australia’s Immigration Detention Network*

Australia’s immigration detention network has a range of facilities available to accommodate detainees. Placement decisions take into account the individual circumstances of the detainee, as well as broader operational requirements. The immigration detention network includes:

* *Immigration Detention Centres* – The centres primarily accommodate illegal maritime arrivals, and people who have overstayed their visa, have breached their visa conditions, had their visa cancelled or have been refused entry at Australia's entry ports.
* *Immigration Residential Housing* – This housing is more domestic and offers an independent environment for people who pose a low flight and/or low security risk, particularly families with children. Residents can cook their own food and be responsible for undertaking a range of typical household activities.
* *Immigration Transit Accommodation* – Short-term transit accommodation has been introduced for people who are a low flight risk. This offers hostel-style accommodation, with central dining areas and semi-independent living. Facilities vary from site to site.
* *Alternative Place of Detention* – An Alternative Place of Detention is a place of immigration detention other than an immigration detention centre or places identified as part of a residence determination (also known as community detention). Alternative Places of Detention are used to meet the specific needs of persons in immigration detention that cannot be adequately catered for in another Immigration Detention Facility. Alternative Places of Detention may range from hospital accommodation in cases of necessary medical treatment, schools for the purpose of facilitating education to school-aged minors, rented accommodation in the community (such as hotel rooms and apartments), or accommodation in the community made available through arrangements with government departments.

In addition, people in immigration detention can also be accommodated in community based arrangements through the *Community Detention programme*.

* Community detention, also known as residence determination, allows people in immigration detention to live in the community at an address specified by the Minister while their immigration status is resolved. People placed in community detention receive support through contracted care and welfare providers.
* As an alternative to being held in immigration detention, under certain circumstances, and on a case by case basis, some low-risk people may be granted Bridging Visas so that they can reside lawfully in the Australian community while their immigration status is resolved. Before being considered for the grant of a Bridging Visa, detainees must satisfy initial health, security and identity checks. In the case of persons who arrive as illegal maritime arrivals the grant of a Bridging Visa requires the exercise by the Minister of a non‑delegable, non-compellable intervention power under the Migration Act 1958 (Cth).

# Appendix F: Information Regarding Australian Prisons, Incarceration Rates and Mandatory Sentencing

***Incarceration of Indigenous men, women and juveniles – State and territory examples***

*Western Australia*: Western Australia has a number of measures to address the high rate of Indigenous incarceration.

* Aboriginal Liaison Officers have been appointed in metropolitan and regional courts. These officers provide an important service in assisting Indigenous peoples in their dealings with the court by explaining court processes and procedures. They also provide education about the criminal justice system within the Indigenous community.
* The Department of Corrective Services (WA) continues to provide Regional Youth Justice Services to the Midwest, Gascoyne, Goldfields, West Kimberley, East Kimberley and Pilbara Regions. The services provided are aimed at diverting young people who offend away from the criminal justice system, reducing the financial costs of youth crime, improving life opportunities for Aboriginal young people and reducing the numbers of young people in remote areas being transported to the metropolitan area and separated from families and communities. The department is undertaking a review of regional youth services to evaluate their effectiveness.
* The Metropolitan Youth Bail Service provides short-term accommodation for young people eligible for bail and locates responsible adults to assume the undertaking required to release young people from custody on bail. It also provides point of arrest intervention and follow up of police cautions to young people.
* The Department of Corrective Services’ *Indigenous Education Initiatives* strengthen Indigenous self-determination and identity while establishing positive links between the department and the Indigenous community.
* The *Fairbridge Bindjareb Project* trains, prepares and places Indigenous men in the mining industry.

*Victoria*: The Victorian *Aboriginal Justice Agreement* is a formal agreement between the Victorian Government and Koori community to work together to improve Koori justice outcomes and reduce over-representation in the criminal justice system. It contains a large number of programs and services for Koori prisoners and offenders, particularly under *Objective 3: Reduce Reoffending*, and *Objective 5: Responsive and inclusive services*.

Phase 3 of the Aboriginal Justice Agreement expands the attention on prevention, early intervention and diversion along the justice continuum, and makes reducing re‑offending a key priority. Much of this objective concentrates on increasing protective factors and decreasing risk factors for further offending by Kooris already involved in the justice system. Important focus areas include mental health and social and emotional wellbeing, alcohol and drug use, education and employment, housing, and connection to family, community and culture. Particular attention will be given to the unique needs of Koori women offenders in these areas.

Corrections Victoria is committed to providing Aboriginal prisoners and offenders with access to a range of Aboriginal Cultural Programs and combined with culturally competent mainstream offending programs. A new Cultural Wrap Around Model will link these cultural programs with mainstream Offending Behaviour Programs to maximise opportunities for behaviour change in a culturally appropriate way. Offending Behaviour Programs address a range of needs including education, alcohol and other drugs, family issues, living skills and mental health. Programs and services for Aboriginal prisoners and offenders include:

* Aboriginal Cultural Immersion Program – to strengthen identity and self‑responsibility
* Marumali – healing long-standing trauma and loss associated with Stolen Generations
* Koori Faces – family strengthening and parenting skills
* Koori Cognitive Skills – culturally relevant, offence focused problem solving (at Wulgunggo Ngalu Learning Place only)
* Dardi Munwurro – culturally appropriate family violence program
* Men’s Yarning circles – group wellbeing support programs.

Nine Aboriginal Wellbeing Officers and two Aboriginal Liaison Officers (in private prisons) are also in place aimed at supporting Aboriginal prisoners during their time in custody through cultural support and facilitating access to other supports, services and programs.

Koori Art is supported through the provision of cultural resources and arts supplies across all prison locations. In addition, the department has funded the State-wide *Aboriginal Arts Program* (the *Torch Arts Program*) for a further three years, to support the development of self-esteem, confidence and cultural strengthening through the production of artwork.

Further to this, the department has developed an *Aboriginal Emotional and Social Wellbeing Plan* in response to recommendations arising from the Koori Prisoner Mental Health and Cognitive Function Study and the department’s commitments to Phase Three of the Aboriginal Justice Agreement.

Priority Area One of the Aboriginal Social and Emotional Wellbeing Plan aims to increase opportunities for Aboriginal prisoners to practice their culture and spirituality with a view to promoting positive social and emotional wellbeing. This includes:

* recognising the role that spirituality, strengthening cultural identity and healing has in building resilient people and protecting against poor mental health,
* continuing State-wide Indigenous Arts Officer in Prison Program,
* enhancing cultural programs for Aboriginal prisoners,
* introducing cultural programs focusing on trauma, resilience and kinship,
* considering operational practices with a view to increasing current opportunities to connect to country and practice spirituality,
* supporting future opportunities for Aboriginal prisoners to connect to country and practice their spirituality, and
* promoting, engaging in and supporting annual NAIDOC week and other events that celebrate Aboriginal culture.

In 2015/16 Corrections Victoria is seeking to further expand programs in areas including Aboriginal women’s programs, cultural programs, healing and trauma programs, Aboriginal family violence programs, women’s and men’s yarning circles, healing programs, Stolen Generations and Aboriginal behaviour-change programs.

*South Australia*: The Aboriginal Services Unit was established within South Australian Correctional Services to monitor the department’s implementation of recommendations from the Royal Commission into Aboriginal Deaths in Custody (1991) and work in partnership with the entire department to assist in the development of specific strategies for working with Aboriginal prisoners and offenders and the Aboriginal community. Key recent activities for the Aboriginal Services Unit include the establishment of the Visiting Elders Program at the Adelaide Women’s Prison, Mobilong Prison and Port Augusta Prison and the recruitment of an Aboriginal Visiting Inspector.

In addition, the Nunga Court (a diversionary court) and the Aboriginal Sentencing Courts operate monthly across different regions in South Australia. Aboriginal Sentencing Courts are presided over by a Magistrate, who is assisted by Aboriginal Elders and/or Respected Persons. As they are sentencing courts, they do not hear trials or contested matters. Aboriginal Sentencing Courts provide an opportunity for Aboriginal court users to have their voice heard in a culturally appropriate manner, and family members and support persons are encouraged to attend and speak directly to the court. Aboriginal Justice Officers provide information about the location and operation of the courts, as well as support to Aboriginal court users and their families. These officers also provide advice to Magistrates and the court generally regarding appropriate services and programs that may assist in the court user’s rehabilitation.

To assist in gaining a better understanding of the profile of female Aboriginal offenders throughout the South Australian criminal system, a dedicated position was created in 2012-13: the Principal Advisor, for all Female Offenders. The Principal Advisor, Female Offenders leads the development of a strategic framework in relation to a renewed focus and prioritisation of women offenders especially Aboriginal Offenders. It is anticipated that this framework will result in an improved and targeted service delivery to female offenders, in addition to sustaining existing initiatives and the development of new strategies.

*Northern Territory*: Recent initiatives relevant to Indigenous contact with the criminal justice system include the ‘new initiatives’ or ‘new era’ reforms led by the Department of Correctional Services. This commenced on 27 February 2012 through the *Justice (Corrections) and Other Legislation Amendment Act 2011* (NT) which gave effect to ‘new era in corrections' initiatives, creating additional sentencing options for courts, namely two new sentencing options called community based orders and community custody orders, as well as electronic monitoring for bail and parole, and empowering the Court to order that the licence disqualification and demerit points of some traffic offenders have no effect. This initiative is directed at reducing Indigenous incarceration and recidivism rates, particularly for Indigenous people from remote areas, to prevent further offending. More information can be found at: [www.nt.gov.au/justice/policycoord/researchstats/index.shtml](http://www.nt.gov.au/justice/policycoord/researchstats/index.shtml).

Other initiatives of the Northern Territory include:

* Pillars of Justice: a comprehensive framework for the integration of police, justice and correctional services. The framework aims to deliver strengthened and coordinated responses to target repeat offending, violence, alcohol related crime and ensure community safety. The five ‘pillars’ are police, courts, youth justice, corrections and victims. These are supported by the sixth pillar, statutes reform.
* Alcohol Mandatory Treatment: a legislative framework for the mandated assessment, treatment and aftercare of people who chronically misuse alcohol and who are either unlikely or unable to voluntarily access treatment options. The Act aims to stabilise and improve the health and social functioning of people, restore their capacity to make decisions about their alcohol use and personal welfare, and improve their access to ongoing treatment.
* Community Justice Centre: delivers mediation training for local peacemakers from the Yuendumu Family Violence and Mediation Group — as supported by the Yuendumu Mediation and Family Safety Program. Training has now been extended to members of the Willowra community. The Community Justice Centre is involved with community safety working groups in collaboration with Central Desert Shire, NT Police, Department of the Chief Minister and the Department of Housing and also collaborates with the Department of Correctional Services and community based indigenous mediators to facilitate Correctional Centre Conferencing between the offender and victim that reinforces re-integration prospects without continued violence, which mitigates the risk of recidivism.
* The Ponki Tiwi Mediation Training Program: the training has expanded to include participants from Lajamanu, Gunbalanya, Katherine and surrounding communities.

# Appendix G: Initiatives to improve prison conditions – State and territory examples

*Tasmania*: The Department of Corrective Services is undergoing a significant change process to improve outcomes for prisoners following a number of reports and consultations. Stage D of the Prisons Infrastructure Redevelopment Project is nearing completion and will deliver a range of new facilities. The scope of works include:

* a new Activities and Education Centre for maximum and medium-security prisoners,
* a new Trade Training Centre that allows flexible opportunities for employment, vocational training, development and purposeful production,
* modifications to the existing Medium Education Building, which provides a new secure drug testing facility and an additional multi-purpose interview room,
* modifications to three maximum security units in the men’s maximum security facility to increase existing exercise facilities for prisoners, and
* construction of a new 10-bed maximum-security accommodation unit.

*Northern Territory*: On 8 September 2014 the new 1048 bed Darwin Correctional Precinct was officially opened. The precincts design optimises inmate activities that will support prisoners being engaged in programs, education, vocational education and prison industries at any given time. Additionally inmates will be engaged in reparation undertakings, work release and programmed activities.

The Darwin Correctional Precinct has identified the Prisoner Educator Listener Scheme as an appropriate supported service to be provided by prisoners for prisoners. Peer listeners will provide support to prisoners in relation to psychological and emotional issues such as grief and loss, relationship issues, difficulties with the prison environment and so on. Training is provided by Northern Territory Department of Correctional Services clinical staff.

# Appendix H: Measure to provide access to appropriate mental health care for prisoners experiencing mental illness – State and territory examples

*Western Australia*: A Specialist Treatment and Referral Team Court has been established to provide opportunities for people in the criminal justice system who have a mental illness to access community mental health services, improve their mental health and address their offending. The court operates in the Perth Magistrates Court and the Perth Children’s Court. The health services provided to offenders provide an integrated co‑morbidity (mental health and addictions) service model, which ensures that offenders are assessed and treated for both mental health and addictions issues in prison. Services offered include mental health, alcohol and drug assessments, pharmacotherapy and medical treatments, psychiatry, counselling, group based health programs, care planning and through‑care management. Health services also collaborate with Prison Counselling Services for the holistic management of patients. In addition, the At Risk Management System provides a framework for suicide prevention, with clear policies and procedures to assist in the identification and management of prisoners at risk of self-harm. The system is a ‘whole of prison’ approach and incorporates multi-disciplinary case-management which draws together the expertise of different staff groups for the prevention and management of prisoners facing acute self-harm or suicidal crisis.

The Disability Services Commission is currently building a Disability Justice Centre which is scheduled to open in July 2015. The centre will provide an alternative to prison for up to 10 people with intellectual or cognitive disability or Autism Spectrum Disorder who have been found unfit to stand trial and given a custody order. The Centre will provide residents with programmes and courses of rehabilitation for their treatment, development and gradual transition back into the community. In 2014, the Disability Services Commission established a dedicated Disability Justice Service to provide consultancy and support to disability sector organisations and justice agencies that are supporting people with disability in the criminal justice system.

*Queensland*: Prisoners can access mental health care through a variety of pathways that are commensurate with their needs. The public health system provides an in-reach prison mental health service that is coordinated across the state and delivers mental health assessment, treatment and management in all major correctional centres. These services are multi-disciplinary and include psychiatrists. They aim to be equivalent to those available in the community. The *Mental Health Act 2000* enables the transfer of individuals to psychiatric hospitals if they require inpatient treatment. Additionally, the Queensland Police Service is provided with training to enhance the identification of prisoners suffering from mental illness. Should mental health issues be identified, processes are in place for mental health professionals to attend watch houses and conduct assessments.

*Victoria*: On entry to prison, all prisoners receive a mental health assessment by a medical officer so that health staff are aware of a prisoner’s mental health and medication needs. Health staff also review a prisoner’s mental wellbeing each time they move between prisons. General practitioners and qualified mental health nurses provide mental healthcare at all prisons, with specialist support from visiting psychiatrists at most locations. The Acute Assessment Unit at the Melbourne Assessment Prison is a specialist mental health unit that provides assessment and treatment for male prisoners with serious psychiatric conditions. St Paul’s Psycho-Social Unit at Port Phillip Prison provides rehabilitation services for male prisoners with a long-term psychiatric disability.

A multidisciplinary, mobile forensic mental health service is available to enhance support for male prisoners with complex mental health needs. The service offers comprehensive diagnostic services, psychological interventions and continuity of care for male prisoners as they move to other prisons or transition out of the prison system.

An Aboriginal Emotional and Social Wellbeing plan outlines a more coordinated approach to improving mental health outcomes for Aboriginal and Torres Strait Islander prisoners. The Plan recognises the fundamental role of culture, community and spirituality for Aboriginal wellbeing and aims to support such connections.

In 2017, a new medium security prison will open that has a special focus on addressing mental health needs. The new prison will include 75 mental health beds and provide specialist mental health services for an additional 100 prisoners.

# Appendix I: Information on the availability of independent external mechanism for monitoring and inspecting prisons and places of detention – State and territory examples.

*New South Wales*: New South Wales has established an independent Inspector of Custodial Services to increase the independent oversight of correctional centres and services. The Inspector is required to inspect and report to Parliament on each adult correctional centre at least once every five years, and on each juvenile correction centre at least once every three years. The Inspector may also inspect and report on correctional services at any time.

*Tasmania:* Currently, Tasmania has a number of ways of ensuring transparency and accountability in its corrections system including free telephone calls from all adult prison facilities to the Ombudsman’s Office, an independent Integrity Commission and internal auditing and complaints investigation processes. Official Visitors appointed by the Minister have unrestricted access to all prisons and prisoners. At a minimum, Official Visitors are required to visit each prison once a month. The Official Visitors Program is administered by the Ombudsman and reports directly to the Minister.

In Tasmania, the *Breaking the Cycle: A Strategic Plan for Tasmanian Corrections 2011-2020* was launched in 2011. It focuses on conditions and rehabilitation in prisons and includes suggestions for increasing accountability and transparency in prisons.

*Victoria*: The Office of Correctional Services Review is an internal review and assurance unit within the Department of Justice & Regulation, separate to Corrections Victoria, which monitors and reviews the Victorian adult corrections system including all adult prisons in Victoria. The Office conducts reviews and unannounced inspections of prisons and prisoner transport services, reviews serious incidents and allegations in the corrections system and administers the Independent Prison Visitor Scheme of 38 volunteers. Independent Prison Visitors provide the Minister for Corrections with independent and objective advice on the operation of Victoria’s prisons from a community perspective.

*South Australia*: The *Ombudsman Act 1972* (SA) gives the Ombudsman extensive investigative powers which can result in recommendations to the Department of Correctional Services for remedial action. The Ombudsman also has the power to report non-compliance by an Agency to the Premier and the Parliament.

In addition, the role of the Visiting Inspector (legislated in the – *Correctional Services Act 1982* (SA)) provides oversight of the prison system. Inspectors visit prisons for the purpose of ascertaining compliance with the provisions of the Correctional Services Act relating to the treatment of prisoners.

*Western Australia*: The Office of the Inspector of Custodial Services was established in 2000 to provide an independent inspection regime for all the state’s prisons, both public and private, and for a number of other custodial services including court custody centres, prison transport, and a small number of police lockups.  In 2003, jurisdiction was extended to include juvenile centres.

*Northern Territory:* Official Visitor schemes carry out visits to prisons, mental health facilities and juvenile detention facilities in the Northern Territory. These schemes provide visitors with varying legislative powers. Under the Northern Territory Prisons Act, official visitors may visit prisons at any reasonable time, subject to the terms and conditions the director thinks fit. The *Mental Health and Related Services Act 1998* (NT) establishes a comprehensive scheme whereby community visitors and community visitor panels inspect mental health facilities. Visitors or panels have the power to make unannounced visits, to inspect documents and records regarding the treatment or care of patients and visit patients.

The Northern Territory Ombudsman is functionally independent from Northern Territory authorities and has the power to visit prisons pursuant to the *Prisons (Correctional Services) Act* (NT). The *Ombudsman Act* (NT) provides the Ombudsman with the general power to do all things necessary or convenient to be done in relation to the performance of the Ombudsman’s functions.

*Australian Capital Territory:* Places of adult detention in the ACT are subject to formal external scrutiny by the ACT Ombudsman and the ACT Human Rights Commission. The latter has completed a number of formal Human Rights Audits into both adult and juvenile facilities. The ACT Commission, through the work of the Children and Young People Commissioner, also convenes a monthly meeting of oversight agencies with responsibilities relevant to the ACT’s Youth Justice Centre (Bimberi). The Human Rights and Discrimination Commissioner is also represented at regular meetings of adult corrections oversight agencies. The ACT is currently considering the suitability of an Inspector of Prisons similar to those in other jurisdictions.

# Appendix J: Mechanisms in place to ensure that all deaths in custody are reviewed and investigated by independent bodies – State and territory examples

*Western Australia*: In Western Australia, the Department of Corrective Services provides written notification within one working day of a death to the State Solicitor’s Office, the Office of the State Coroner, the Office of the Inspector of Custodial Services, the Ombudsman’s Office and the National Deaths in Custody Program. The department’s policy and procedures for responding to the death of a prisoner also requires that the following are also notified:

* the Minister for Corrective Services,
* Police Regional Investigations Unit (as a matter of priority),
* the police officer in charge at the nearest Police station,
* internal business areas including Employee Welfare, Suicide Prevention and Clinical Governance, Aboriginal Visitors Scheme (if the deceased prisoner was Indigenous) and Custodial Standards and Review, and
* external agencies or parties (depending on the prisoner’s circumstances) such as foreign consulates, WorkSafe and the Prisoners Review Board.

*Australian Capital Territory*: In the ACT, all deaths in custody are referred for coronial investigation and it is custodial practice that deaths are the subject of an internal operational review. The coronial investigation of a death in custody must also be subject to a hearing which is to be in public unless the coroner is of the opinion that it is desirable in the public interest or in the interest of justice to hold a private or partially private hearing.

*South Australia*: Following any death in prison, the Department for Correctional Services and the Police Department prepare individual reports which are provided to assist the Coroner. In accordance with the *Coroners Act 2003* (SA), the Coroner is required to hold an inquest into the circumstances of every death in custody. The Coroner forwards a copy of the findings and any recommendations to all responsible Ministers. A report detailing actions taken in response to the recommendations made must be laid before both Houses of Parliament within six months and eight sitting days of receiving the findings.

# Appendix K: Measures taken to adopt non-custodial measure and diversion programmes and review of relevant criminal laws (particularly the use of mandatory sentencing) – State and territory examples

*New South Wales*: NSW has a range of non-custodial options available ranging from supervised and non-supervised bonds, community service orders, suspended sentences, home detention and Intensive Corrections Orders. The Orders were introduced in October 2010 and, for sentences of imprisonment of no more than two years, allows court orders to be served in the community under supervision. The conditions of the Orders include therapeutic and work components. In addition, NSW has in place a number of programs through which offenders may be diverted from the criminal justice system. These include the Drug Court, Magistrates Early Referral Into Treatment, Forum Sentencing, Court Referral of Eligible Defendants into Treatment and Life on Track. For juvenile offenders, the *Young Offenders Act 1997* (NSW) provides for the diversion of children out of the court system through warnings, cautions and youth justice conferences. The NSW Law Reform Commission has recently conducted a large-scale review of sentencing laws, including consideration of non‑custodial options. The report was finalised in July 2013 and recommends the introduction of three new non-custodial sentence options which the NSW Government is currently considering.

The Law Reform Commission did not recommend amendment of the limited circumstances in which mandatory sentences apply in NSW. However, in 2014 the Government introduced an offence of assault causing death, which carries a mandatory minimum term for the aggravated offence. The aggravated form of the offence applies where the offender is over the age of 18 years and was intoxicated at the time of the assault, and has a mandatory minimum sentence of 8 years. It is a defence if the intoxication was not self‑induced or the defendant had a significant cognitive impairment at the time of the offence.

*Victoria*: Victoria successfully operates a suite of court-based diversion programs and initiatives to reduce the cycle of offending by addressing the underlying causes of crime. The programs are based on either a diversionary or interventionist ‘refer-needs assessment‑treatment’ model. These include:

* The Criminal Justice Diversion Program which is predominantly for first time offenders who acknowledge responsibility for their offending, provides the opportunity to mitigate a criminal record by undertaking conditions that will benefit them and the community.
* The Enforcement Review Program or Special Circumstances List assists disadvantaged individuals, who have a mental illness, intellectual disability, acquired brain injury or drug or alcohol problems, that have outstanding fines for minor offences registered at the Infringements Court and are progressing to warrant stage.
* The Court Referral & Evaluation for Drug Intervention & Treatment Program/Bail Support Program provides accused participants with assistance to successfully complete bail by early intervention referral to community programs.
* Court Integrated Services Program provides assessment, referral and treatment support at pre-trial or bail stage for persons who require a level of assistance not available in the mainstream court. The program provides case management support and linkages to support services including drug and alcohol treatment, crisis accommodation, disability services and mental health services.
* The Drug Court of Victoria can sentence serious offenders with drug or alcohol dependency, and whose offending is linked to their dependency, to a two year Drug Treatment Order which involves a suspended sentence and a treatment program. The program focuses on the offender’s substance abuse and associated psychological and welfare needs.
* The Assessment and Referral Court List is a specialist list for pre-sentence accused that have multiple and complex needs such as a mental illness, intellectual disability, acquired brain injury, drug and alcohol problems, autism spectrum disorder or a neurological impairment. The List provides highly specialist assessment, referral and intervention to the most complex individuals with a long-term involvement in the criminal justice system, where standard court approaches have not been successful.
* The Neighbourhood Justice Centre works in partnership with local organisations and community members to tackle local justice, crime and safety issues and develop lasting, local solutions. It brings together a multi-jurisdictional court and a multi‑disciplinary integrated model of assessment and service with a wide array of on‑site support services for individuals in both pre- and post-sentencing domains.
* The Family Drug Treatment Court (FDTC) has been established as a three year pilot program in the Children's Court of Victoria. The aim of the FDTC is to help parents stop using drugs/alcohol and promote family reunification. The FDTC is chaired by a Children's Court magistrate and is supported by a multi-disciplinary team. The team comprises drug and alcohol clinicians and a dedicated social worker.
* An interim youth diversion program in the Children’s Court of Victoria commenced in May 2015. The program is available at some metropolitan and regional locations. The program offers diversion options when young people appear in the Criminal Division for the first time and provide an opportunity for early intervention and support to divert young people away from the mainstream criminal justice system.

In addition, Community Correction Orders, introduced in early 2012 as a replacement for the previous range of community-based sentences, provide courts with an opportunity to tailor an appropriate non-custodial order which recognises the gravity of offending, while providing a genuine alternative to a custodial sentence. Every order contains certain core conditions, including that the offender not commit an offence punishable by a term of imprisonment during the order. The Court imposing the order may attach any of a number of further conditions, including a condition that the offender carries out unpaid community work or that the offender undergoes treatment or rehabilitation specified by the court.

*South Australia*: Current initiatives in operation in South Australia include the Magistrates Court Diversion Program. The Program has been operating since 1999 and has been found to have a positive impact on reducing reoffending.  Eligible individuals are adults who have been charged with certain minor or summary offences to be heard in the Magistrates Court of South Australia, and who have impaired intellectual or mental functioning arising from:

* mental illness,
* intellectual disability,
* a personality disorder,
* acquired brain injury, or
* a neurological disorder, including dementia.

Another important initiative is the Drug Court. Drug courts combine intensive judicial supervision, mandatory drug testing, escalating sanctions, and treatment and support services to help drug abuse offenders break the cycle of drug abuse and crime. Research has shown that drug courts reduce recidivism related to drug abuse.

In addition, South Australia operates an Aboriginal Court called the Nunga court (specifically for Aboriginal offenders). The Nunga Court differs from other court days in several significant ways such as the Magistrate sits off the bench, closer to eye-level with the offender, an Aboriginal justice officer or a senior Aboriginal person attends to advise on cultural and community matters and the offender sits at the bar table with their lawyer and may have a relative accompanying them during the process.

*Tasmania:* Tasmania has a number of options available through Community Corrections, including community service orders, probation orders and rehabilitation program orders. Tasmania also operates a Court Mandated Diversion Program which deals with a cohort of offenders whose risk of re-offending is addressed by treating their substance abuse issues in the community as an alternative to imprisonment. In addition, Tasmania operates a Mental Health Diversion List to deliver diversion and support to people with mental health issues who are referred from the mainstream criminal jurisdiction of the Court.

*Western Australia*: Western Australia has adopted a number of diversion measures such as the Court Assessment and Treatment Services that supports the Perth Drug Court in diverting drug dependant offenders from imprisonment to court supervised drug treatment and rehabilitation.

# Appendix L: Child-appropriate facilities that are separated from adult detainees – State and territory examples

*New South Wales*: NSW administers seven juvenile detention centres, including a dedicated girls and young women’s centre, where young people aged from 10 to a maximum of 21 years are detained.

 *Queensland*: The Queensland Police Service operates under a memorandum of understanding concerning detention of children in watch houses. The memorandum stipulates children should only be held in watch houses, as a last resort, for the shortest time possible and must be housed separately from adults. Separate youth detention facilities house young offenders aged 10-16 years.

*Tasmania*: Separate youth detention facilities house young offenders aged 10-18 years. However, a young person who turns 18 in detention may remain at the centre if they were sentenced as a youth, and if they pose a low risk to other young people. In exceptional circumstances a youth offender may be detained in an adult correctional centre, where the individual cannot be safely managed within a juvenile detention centre. Where a transfer of this nature occurs, a multi-disciplinary Transfer Assessment Panel will meet regularly to monitor the situation and ensure appropriate support and services are provided.

*Victoria*: Victoria administers separate facilities for boys aged 10-14 years and 15-17 years, girls aged 10- 17 years, and young women aged 18-21 years. Young women and girls may be held together in a youth residential centre. In some circumstances children aged 16 years and over may be transferred from a youth justice centre to an adult prison, where they cannot be properly controlled in a youth facility.

*Western Australia:* Western Australia has a separate youth detention centre for offenders aged 10-17 years. Banksia Hill Detention Centre accommodates young males and females from across the State and is situated independently from adult facilities.

*Australian Capital Territory:* The ACT has a separate youth detention centre for offenders aged 10-21 years. The Bimberi Youth Justice Centre is a human rights compliant facility that accommodates young males and females from across the Territory and is situated independently from the adult detention centre. The Australia’s Children’s Commissioners and Guardians recently released their *Model Charter of Rights for children and young people detained in youth justice facilities*.

*South Australia*: The Adelaide Youth Training Centre accommodates residents who have been incarcerated in relation to criminal matters committed between the ages of 10 and 17 years. This includes some young people aged 18 years or older held on criminal matters committed when they were 17 years or younger.  The Adelaide Youth Training Centre accommodates both male and female residents in separate units. Legislative provisions enable youth over the age of 18 years to be transferred to an adult facility if they pose a risk to minors in a juvenile Training Centre.

*Northern Territory*: The Northern Territory has two detention centres; one in Darwin and one in Alice Springs, where young people aged 10-17 are detained. Girls sentenced or with long periods of remand are accommodated in Darwin.

# Appendix M: The re-integration of juvenile offenders - Indigenous children

The Australian Government’s priorities of improving Indigenous education and employment outcomes and ensuring that Indigenous people live in safe communities where the law of the land is observed will address the underlying disadvantage that leads to poor re‑integration outcomes for young Indigenous offenders. Through the *Indigenous Advancement Strategy’s Safety and Wellbeing Programme*, the Australian Government is supporting states and territories by funding initiatives that seek to ensure that Indigenous juveniles are rehabilitated and reintegrated into their communities to reduce their likelihood of re-offending, including prisoner throughcare and youth crime prevention and diversion activities.

Under the *National Indigenous Law and Justice Framework*, all states and territories have agreed to implement strategies to reduce the overrepresentation of young Indigenous people in the criminal justice system, and support young Indigenous offenders through rehabilitative interventions and transition support.

*State and territory examples*

*New South Wales*: In NSW, there are age and gender appropriate programs that aim to address the offending and developmental needs of young people in custody. Community‑based interventions focus on addressing offending behaviour in ways that have been proven to be effective in reducing risks associated with reoffending and effective supervision of young offenders as they meet their legal obligations. The Community Justice Program provides clinical and casework support for offenders and limited accommodation for clients with an intellectual disability who have exited custody and present with an ongoing risk of offending. From the inception of the program in 2006 to 31 January 2015, 200 juvenile clients (24% of total referrals) were referred to the Community Justice Program and 76 of referred juvenile clients were accepted into the Program. At 31 January 2015, 18 participants (5.6%) were under the age of 18.

*South Australia*: The aim of the Department for Communities and Social Inclusion, in the administration of sentences imposed on young people by the Youth Court, is to assist these young people to desist from further offending. Emphasis is placed on supporting young people to take positive steps toward pro social re-integration into family (where possible) and community environments. To achieve this, opportunities are provided to young people to develop support networks, participate in psycho-social development, and access education and employment programs. A case management approach is utilised. This involves assessment of young people’s needs and strengths, goal setting, and bringing together stakeholders (family, carers, and cultural elders, support services) to work alongside the young person to achieve their goals.

The Adelaide Youth Training Centre opened in September 2012 (Goldsborough Road campus) and was designed to support reintegration. The Training Centre is a one centre-two campus model designed to promote learning and development. It contains an education complex equipped with classrooms, trade and arts areas. The facility also has a health/medical facility with onsite health and dental care provided. A multi-faith space is available for worship and other religious activities. Aboriginal cultural spaces have been incorporated throughout the facility, with consideration given to landscaping (for example, plant types). These cultural spaces were designed in consultation with Aboriginal communities. The spaces are designed to enable Aboriginal Elders to provide a range of cultural and ceremonial services to residents.

*Tasmania*: Custodial and Community Youth Justice employees support and prepare young people in detention to reintegrate into the community. Planning for release begins at least six weeks prior to a young person’s release. Staff work with the young person’s family and relevant services to develop an exit plan. The exit plan covers accommodation, education and employment, therapeutic programs, personal interests and recreation, and response to community challenges. The exit plan also includes a medical discharge summary and ensures that the young person has access to their birth certificate, Medicare card and photo identification. Finally, a community case plan is developed, which is reviewed by Custodial and Community Youth Justice and other stakeholders with the young person to review their progress after their release. There are also a number of programs that operate in Tasmania that support reintegration. These include:

* Save the Children - Transition from Detention program,
* The CREATE Foundation - CREATE Your Future workshops at Ashley Youth Detention Centre, and
* Prison Fellowship – Mentoring young people to build social skills.

# Appendix N: An independent mechanism to monitor compliance of juvenile detention facilities with the rights enshrined in the Covenant

*New South Wales:* The NSW Ombudsman and the official visitor program operated by the NSW Inspector of Custodial Services provide an independent review of juvenile custodial facilities.

*South Australia*: The Office of the Guardian for Children and Young People is established in legislation as independent from the Executive and Administrative arms of Government. The roles and functions of the Guardian are to promote, advocate and monitor the circumstances of young people in state care. The Guardian is provided with routine access to residents housed in both campuses of the Adelaide Youth Training Centre. The Guardian undertakes regular monitoring of the conditions and treatment of young people within the facilities. The Guardian provides independent reports on findings from inspection for the Minister for Communities and Social Inclusion.

*Northern Territory*: The *Review of the Northern Territory Youth Detention System Report: January 2015* was tabled in Parliament on 19 February 2015. The review presents 16 high level recommendations that have been accepted by the Northern Territory Government. The implementation of the recommendations will be supervised by a cross Northern Territory Government and non-government organisation Youth Detention Review Advisory Group.

Mechanisms to enable independent oversight and investigation include the Ombudsman of the Northern Territory, the Children’s Commissioner and the Anti‑Discrimination Commissioner. Further, the *Youth Justice Act* (NT) permits the Minister to enter and inspect or authorise a person to enter and inspect a detention centre at any reasonable time. The Act also authorises and requires the Minister to appoint at least three Official Visitors for each detention centre. The function of the Official Visitors is to inquire into the treatment and behaviour of, and the conditions for, detainees in the detention centre for which the Official Visitor is appointed and to report to the Minister in writing after each visit. A detention centre must be visited by an Official Visitor appointed for that detention centre at least once every month.

# Endnotes