



Commonwealth
National
Preventive
Mechanism



Post Visit Summary

Jervis Bay Police Station

October 2024

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Summary

Purpose of visit

The Commonwealth NPM and ACT Ombudsman, as part of the ACT NPM, conducted a joint visit to the Jervis Bay Police Station on 6 December 2023, with a staff member from the ACT Human Rights Commission (HRC) attending as an observer. This was the Commonwealth and ACT NPM's first visit to the Jervis Bay Police Station as part of our role in monitoring places of detention under the joint control of the Australian Federal Police (AFP) and the ACT Government.

What the visit revealed

Our visit to the Jervis Bay Police Station found the station was in very good condition for its age (it was opened in 1993) and location near the ocean, where corrosion effects can be an issue.

During our visit, we found the cells are rarely used. This was attributed to a strong preference for diverting people from custody.

We identified a number of areas of concern including a lack of toilet privacy for people in detention, commercially available floor drains which can be used as ligature points and the primary transport vehicle not having an air-conditioned pod. Of most concern were deficiencies found with the duress alarms and intercom systems, all of which were either not working or only working intermittently, and the absence of any procedures to routinely check these were functional.

Suggestions for Improvement



Suggestion 1

Where a range of fire extinguishers are available for use, fire extinguisher charts outlining the different types of fire extinguishers and their uses should be located in areas highly visible to all staff.

Suggestion 2

That the sallyport camera be replaced with a camera that has a field of view that covers the entire sallyport area, or a second camera is installed to eliminate blind spots with the current system.

Suggestion 3

That all duress alarms be inspected with all faults being rectified and that they be tested, and results recorded, as part of a regular inspection regime, whether the cells are in use or not.

Suggestion 4

That Oleoresin Capsicum (OC) foam be made available for use in the detention area to avoid overspray and over deployment of streamer type chemical agents that may affect other people in detention who are not the subject of the deployment.

Suggestion 5

That all intercoms be inspected with all faults being rectified and that they be tested, and results recorded, as part of a regular inspection regime, whether the cells are in use or not.

Suggestion 6

That measures be taken in the holding cell to provide privacy for people in detention from both the cell window and cameras when toileting, while still allowing sight lines to the upper body for officers to maintain visibility for security and safety purposes.



Suggestion 7

That information regarding access to legal advice, complaints bodies and mechanisms for making a complaint be mounted in prominent places for people in detention to see. This information should also be accessible to persons with language or understanding difficulties.

Suggestion 8

That the AFP Compliments and Complaints brochure be given to all persons in detention upon leaving custody.

Suggestion 9

That a supply of clothing for males and females of different sizes be held on site for the use of people in detention.

Suggestion 10

That minimum exercise requirements be allowed for all persons held in custody with appropriate supervision.

Suggestion 11

A review should be undertaken to remove all potential ligature points including replacing all commercial drain assemblies with assemblies of a Crocodile Roll Resistant (CRR) design.

Suggestion 12

That all contracted cleaners and police (if they are required to clean cells) undertake formal training in forensic cleaning and be provided with the appropriate products.

Suggestion 13

That cleaning contracts include an on-call provision to allow for cleaning to be undertaken at short notice in the event of self-harm or soiling incidents.

Suggestion 14

That use of the Princes and Kings Highways for the transport of people in detention to and from the ACT be incorporated into a policy document. This policy should also address other considerations and requirements when transporting people in detention from Jervis Bay Police Station to Canberra, including frequency of comfort stops, monitoring requirements, pre-departure checks of vehicle, post transport cleaning and restocking of the vehicle, etc.

Suggestion 15

That an air conditioning unit be fitted to the detainee pod of the primary transport vehicle.

Iain Anderson

Commonwealth and ACT Ombudsman

Facilities and governance

The Jervis Bay Police Station opened in 1993 and is located in the Jervis Bay Territory (JBT), which includes lands owned by the Wreck Bay Aboriginal Community Council (including the Booderee National Park).

As part of the AFP, ACT Policing provides community policing services to the Jervis Bay Territory (JBT).

Laws relating to police powers and responsibilities, including detention, are provided to the AFP in the JBT by virtue of the *Jervis Bay Territory Acceptance Act 1915*, which extends all ACT laws and principles to the JBT so far as they are applicable.

Additionally, AFP working in the JBT are conferred 'Special Constable' status within NSW under an agreement between the AFP and NSW Police. This provides the AFP with powers under NSW law in the adjacent areas of NSW should they be required. NSW Police also have members conferred 'Special Constable' status in the AFP to assist the provision of policing services to the Jervis Bay community, where required.

Facilities at Jervis Bay Police Station consist of a secure interview room, detention area, sallyport for the police vehicle and two cells. One of the cells is padded and fitted only with a recessed light, intercom and duress button. The second, standard holding cell is designed for the short-term detention of up to two persons but has no capacity to separate people in detention.

There is also a courtroom attached to the station, which includes an Audio-Visual Link (AVL) capability. There is no facility for the taking of biometric material such as photographs or fingerprints.

For the 12 months ending 30 June 2023, the Jervis Bay Police Station held 2 persons in custody, one was an adult female and the second a male young person both of whom identified as being of First Nations descent.

Observations

Safety

Emergency Evacuation Plans

At the time of our visit, the Jervis Bay Police Station had standalone emergency and evacuation plans, which we sighted throughout the facility. Such information must be easily accessed by all staff and people in detention in the event of an emergency.

The Mandela Rules Checklist requires evacuation plans be in place for the protection of people in detention.¹ The APT also recommends that cells can be evacuated safely in an emergency.²

Fire Safety

There are fire alarms and prevention systems in the police station, however, no automated fire suppression system, such as a sprinkler system, was in place.

We observed no fire hose in the facility, but there were numerous fire extinguishers of various types throughout including water, dry chemical and CO₂. Each had been tested in July 2023. Fire extinguisher signage boards were located at all points throughout the facility where firefighting equipment was available.

No fire extinguisher chart was seen identifying the different types of fire extinguisher and their suitability for different classes of fire. However, it was pleasing that the officer in charge (OIC) had a very good knowledge of the different types of extinguishers and their suitability to different fire situations, including recognising that CO₂ is not to be used in a confined space, such as a cell, due the risk of asphyxiation.

Fire safety in detention facilities is of critical concern due to the unique challenges posed by the secure and confined nature of these environments. Ensuring the safety of people in detention during a fire emergency is essential. The Nelson Mandela Rules Checklist states that fire safety measures and protocols are to be in place and known by staff.

¹ United Nations Office on Drugs and Crime (2017). *Assessing compliance with the Nelson Mandela Rules: A checklist for internal inspection mechanisms*. New York: United Nations. p10 & 24

² Association for the Prevention of Torture. (2004). *Monitoring Places of Detention: A Practical Guide*. Geneva: APT. p159.



Image 1: Fire Extinguishers



Suggestion 1

Where a range of fire extinguishers are available for use, fire extinguisher charts outlining the different types of fire extinguishers and their uses should be located in areas highly visible to all staff.

CCTV

We observed CCTV cameras distributed throughout the facility.

All cell cameras were of an infra-red variety for effective viewing at night and in low light conditions. The CCTV monitors were large enough for effective viewing and were situated up high and to the front of the staff workstations. There were direct lines of sight to the screens and into the holding cell which had a large window for direct viewing.

The display screens were displaying the correct date and time stamping.

Footage is recorded to a Hard Disk Drive and is retained for 6 months at which time it is overwritten. Any incidents will be downloaded and retained.

The sallyport had one camera, which had a large blind spot directly beneath the camera itself.

CCTV in detention facilities plays a crucial role in upholding the principles and objectives of OPCAT. Effective CCTV systems provide protection through surveillance by improving the ability to monitor, prevent, and respond to incidents of ill treatment, thereby enhancing transparency and accountability, building public trust while protecting the rights of persons in detention.

The APT acknowledges that existing standards surrounding the use of CCTV in detention settings are few in number, however, should still be assessed.³

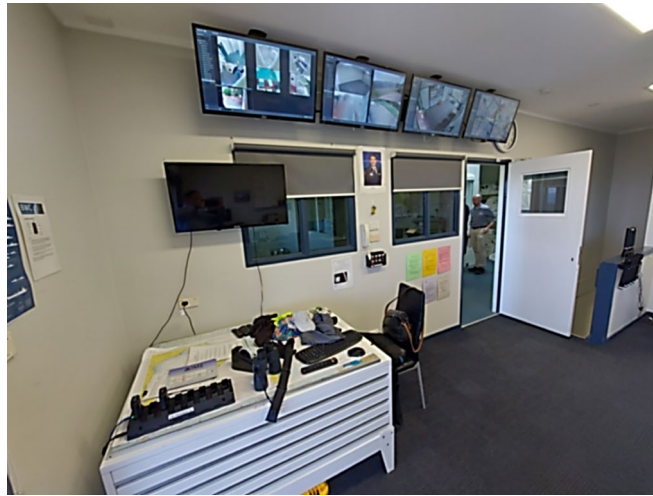


Image 3: CCTV Monitoring System & window into holding cell



Suggestion 2

That the sallyport camera be replaced with a camera that has a field of view that covers the entire sallyport area, or a second camera is installed to eliminate blind spots with the current system

Duress Alarms

There was one duress alarm located in the detention area shower for the use of persons in detention to seek assistance when showering. This activated an alert tone throughout the station. However, when the alarm was activated, it only worked intermittently.

Duress alarms are a vital component in the safety of a detention facility and must be operational at all times.



Suggestion 3

That all duress alarms be inspected with all faults being rectified and that they be tested, and results recorded, as part of a regular inspection regime, whether the cells are in use or not.

³ Association for the Prevention of Torture. (2013). *Monitoring Places of Detention: A Practical Guide*. Geneva, Switzerland. p145.



Image 4: Duress alarm in shower

First Aid

First aid kits and defibrillators were located throughout the facility. There were also two backpack response kits with defibrillators for use off site. Staff receive training in basic first aid including defibrillator use every twelve months.

First aid in detention facilities is vital to ensure the immediate health and safety of people in detention. It involves providing prompt and appropriate medical care for injuries, illnesses or medical emergencies until professional medical help arrives.



Images 5, 6 and 7: First Aid kit, Defibrillator and backpack response kits

Chemical Agents

There is no Oleoresin Capsicum (OC) foam available at the facility, only OC fogger (aerosol). This item carries inherent risks of overspray and over deployment, which can enter the ventilation system and spread throughout the facility, consequently affecting staff and other persons in detention who are not the subject of the deployment. When used in a confined space it can also lead to respiratory distress. This is not acceptable, as any chemical agent must be suitable for the environment it is going to be used in, which is why various forms are available, such as fogger, streamer, and foam.

The European Committee for the Prevention of Torture (CPT) notes that the use of streamer and fogger type agents in very confined spaces, such as cells, pose risks to the health of both people in detention and staff.⁴ The Royal Commission into the Protection of and Detention of Children in the NT also noted that, when gas is deployed, it will often also necessarily affect other people.⁵



Suggestion 4

That Oleoresin Capsicum (OC) foam be made available for use in the detention area to avoid overspray and over deployment of streamer type chemical agents that may affect other people in detention who are not the subject of the deployment.

It should be noted that we are not suggesting the use of OC as an option of first choice. What we are saying is that the type of OC currently being used is not the appropriate type for use in a confined place, such as a cell. The effects of the OC on an individual not the subject of the deployment gives rise to a real risk of ill-treatment under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT).

OC is used in every State and Territory Police agency as a lawful use of force option contained within individual agencies' Situational Use of Force or Tactical Options Models. These Models identify that only the minimum amount of force should be applied to achieve an objective and that the level of force may be scaled up or down at any time based on the changing circumstances. The situation will need to be continually re-assessed. OC may be used on persons who are violent and when other tactical options such as presence and verbal de-escalation have failed.

⁴ The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, p69.

⁵ *Report of The Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory* Volume 2A, p253.

Article I of the CAT states that torture "...does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions."⁶ As long as use of the correct form of OC is proportionate, and used only as a last resort and in accordance with guidelines, it does not constitute torture or ill-treatment.

Intercoms

We tested the intercoms in all cells and saw that none were functioning. Intercoms in other areas of the facility were either not functioning or only functioning intermittently.

Intercoms are a critical component of detention infrastructure and play a crucial role in ensuring the security and safety of people in detention by providing a means of immediate communication to enable staff to respond to emergencies quickly and efficiently.

The *Royal Commission into Aboriginal Deaths in Custody* (RCIADIC) stated it is imperative that properly functioning alarm or intercom systems are in each cell to give direct communication to custodians for people in detention to summon assistance in the event of illness or emergency⁷.



Suggestion 5

That all intercoms be inspected with all faults being rectified and that they be tested, and results recorded, as part of a regular inspection regime, whether the cells are in use or not.

At Risk Persons

We were advised that at-risk persons would be managed in line with the ACT Watch House Manual, as far as practicable given the resourcing limitations of a remote station.

Managing persons at risk is a critical responsibility to ensure the safety, well-being and appropriate care of individuals who may be vulnerable or face specific challenges. We note the high likelihood that people detained at Jervis Bay Police Station will be First Nations people. The Watch House Manual defines a person at-risk as 'an Indigenous Australian', and that a person at-risk requires increased monitoring. Staff at Jervis Bay Police Station were unaware that the Watch House Manual categorises First Nations persons as 'at risk'.

The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) made several recommendations with regard to at-risk people in police detention, including about

⁶ *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. General Assembly resolution 39/46. 10 December 1984

⁷ *Royal Commission into Aboriginal Deaths in Custody*, Recommendation 140.

ensuring their care, management, and training of staff.⁸ We strongly encourage staff at Jervis Bay Police Station to familiarise themselves with the findings and recommendations made by the RCIADIC and the ACT Watch House Manual, and to seek advice from the AFP/ACT Policing First Nations Liaison Officers to further their understanding of the needs of First Nations people.

Accessibility

People coming into custody enter the detention area via police vehicle through a secure vehicle entry sallyport (garage). External entry to the sallyport is secured by a roller-door operated by staff from within the sallyport. Once inside the sallyport, the roller door is closed and entry to the detention area is by an internal door, which has a ramp leading into the station.

Although there is a ramp leading into the station, it is not known if a wheelchair would be able to navigate it due to the sharp left turn that has to be made from the sallyport. No wheelchair was observed in the facility.

People in detention who are compliant and cooperative may be brought into the station via the front door entry.



Image 8: Sallyport

Emergency Cell Access

In the event of emergency access to the cells due to power outage or failed/broken locks, there are two angle grinders, one corded and one cordless to cut the tongues of the locks to gain entry.

⁸ *Royal Commission into Aboriginal Deaths in Custody*, recommendations 127, 133, 137, 142, 147.

Respect

Privacy

The cell toilet had no privacy screen fitted, which leaves people in detention in full view of both the viewing window and CCTV camera when toileting.

Toilet privacy in detention settings is an important aspect of ensuring the dignity, safety, and well-being of individuals. *The International Covenant on Civil and Political Rights* (ICCPR) guarantees that no one shall be subjected to arbitrary or unlawful interference with their privacy.⁹ The APT articulates that sanitary installations should provide adequate privacy¹⁰ and the *ACT Human Rights Act 2004* provides everyone with the right not to have their privacy, family, home or correspondence interfered with unlawfully or arbitrarily.¹¹



Image 9: CCTV view of holding cell showing toilet with no privacy



Suggestion 6

That measures be taken in the holding cell to provide privacy for people in detention from both the cell window and cameras when toileting, while still allowing sight lines to the upper body for officers to maintain visibility for security and safety purposes.

⁹ *International Covenant on Civil and Political Rights*, Article 17.

¹⁰ Association for the Prevention of Torture. (2004). *Monitoring Places of Detention: A Practical Guide*. Geneva, Switzerland. p146, 147.

¹¹ *Human Rights Act 2004 (ACT) s12*

Complaints and Legal Advice

There were no posters or other literature providing information about accessing legal advice or representation, making a complaint or a person's rights to these. We were advised by the OIC that people in detention are not advised of their right to make a complaint, or about escalation options such as to the Commonwealth or ACT Ombudsman, or the Human Rights Commission. If a person in detention raised the issue of wanting to make a complaint, they would be directed to the AFP online portal if the matter was not something the OIC or staff could remedy directly.

The existence of an independent mechanism for examining complaints about treatment whilst in police custody is an essential safeguard for ensuring accountability, transparency and the protection of individuals rights.

The Mandela Rules provide that every prisoner shall be provided with written information about his or her rights including authorised methods of seeking information about legal advice and procedures for making complaints.¹²



Suggestion 7

That information regarding access to legal advice, complaints bodies and mechanisms for making a complaint be mounted in prominent places for people in detention to see. This information should also be accessible to persons with language or understanding difficulties.

Suggestion 8

That the AFP Compliments and Complaints brochure be given to all persons in detention upon leaving custody.

Clothing

We were advised by the OIC that there is no spare clothing kept on site for people in detention who may have no clothing, whose clothing is damaged or contaminated with bodily fluids or OC spray or is required to be seized for forensic purposes.



Suggestion 9

That a supply of clothing for males and females of different sizes be held on site for the use of people in detention.

¹² The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 54.

Police/Community Relations

It was pleasing to note the OIC had an excellent working knowledge of the local Wreck Bay Aboriginal Community. He discussed at length some of the initiatives he and his staff had implemented to improve relations between police and the local community, including procuring a number of fishing rods from a local store for children to use under the supervision of off duty police.

We acknowledge we do not represent the diverse perspectives of all First Nations people. However, our observations and conversations onsite indicated that the OIC seemed to have a good understanding of cultural sensitivity. For example, they relocated the AFP Commissioner's picture from the detention area entry and replaced it with a picture of a White Breasted Sea Eagle which is the guardian animal of the local Wreck Bay aboriginal community. We reiterate our advice to engage with the AFP/ACT Policing First Nations Liaison Officers to ensure engagement is culturally safe and appropriate.

Purposeful Activity

Outdoor Exercise

We were advised there is no exercise regime in place for people in detention, but that individual assessments would be made on a case-by-case basis, taking account of the limitations of the facility and resourcing available. The only available area is a small concrete smoking area which doubles as an exercise yard for people in detention who are compliant and not considered to be a risk of escape, self-harm, or harm to others.

Outdoor exercise is an important aspect of ensuring physical and mental well-being. The Mandela Rules state that every prisoner who is not employed is to have at least one hour of exercise if the weather permits. This requirement applies to all prisoners without exception.¹³ The CPT states that persons held in police custody for 24 hours or more should, as far as possible, be offered outdoor exercise every day.¹⁴



Image 14: Enclosed smoking area that doubles as an exercise yard



Suggestion 10

That minimum exercise requirements be allowed for all persons held in custody with appropriate supervision.

¹³ The *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules), Rule 23 & 42.

¹⁴ The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Standard 47.

Well-being and Social Care

Cell Conditions

There is one holding cell for the short-term detention of up to two persons but there is no capacity to separate people in detention. The cell has:

- Two raised bed areas with foam mattresses;
- Toilet with internal flushing facility which was in working order;
- Sink with water fountain which was in working order;
- Stainless steel mirror;
- Intercom and duress alarm button (not working at time of visit);
- Air conditioning;
- CCTV camera; and
- Lights and windows.

There was a large, clear, toughened glass window which enabled excellent visibility into the detention area from the officers' muster room, and which had direct lines of sight into the holding cell. The RCIADIC reported that it is preferable for police cells to be designed to maximise direct visual surveillance.¹⁵

There is also a single padded cell fitted only with CCTV camera, a recessed light, intercom and duress button (not working at time of visit). Direct visual surveillance was not feasible from the officers' muster room.

The floors in both the holding cell and the padded cell had a commercially available drain assembly which could be used as a ligature point. The RCIADIC recommended that Police should carefully scrutinise equipment and facilities provided at institutions with a view to eliminating and/or reducing the potential for harm. Similarly, steps should be taken to screen hanging points.¹⁶

¹⁵ Royal Commission into Aboriginal Deaths in Custody, Recommendation 139

¹⁶ Royal Commission into Aboriginal Deaths in Custody, recommendation 165.

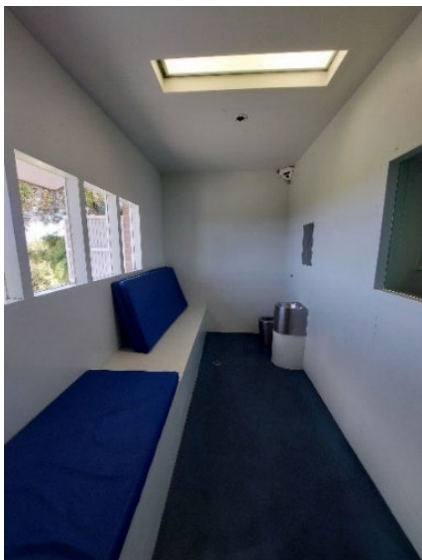


Image 10: Holding Cell



Image 11: Padded



Image 12 Cell Holding cell drain assembly

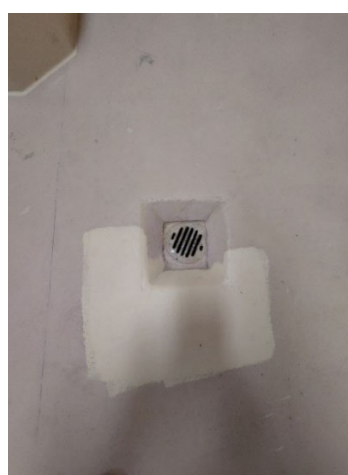


Image 13: Padded Cell drain assembly



Suggestion 11

A review should be undertaken to remove all potential ligature points including replacing all commercial drain assemblies with assemblies of a Crocodile Roll Resistant (CRR) design.

Meals

Due to the extremely low use of the cells, frozen microwave dinners are provided from the local Woolworths supermarket, including vegetarian meals, which are kept frozen on site.

Cleaning Arrangements

The cells were in good condition for their age with cleaning arrangements for the cells under contract to ARA Indigenous Services for 10 hours per week. In the event of a self-harm incident or soiling of a cell, the area would be sealed off until the next cleaning shift or if the cell is required to be placed back into service immediately, staff on duty would be required to clean them. There is no on-call cleaning in the current contract.

Neither police or contracted cleaners receive training in forensic cleaning.

Forensic cleaning in a detention environment is crucial for maintaining hygiene, managing biohazards, mitigating risk and ensuring the safety of both staff and people in detention.



Suggestion 12

That all contracted cleaners and police (if they are required to clean cells) undertake formal training in forensic cleaning and be provided with the appropriate products.

Suggestion 13

That cleaning contracts include an on-call provision to allow for cleaning to be undertaken at short notice in the event of self-harm or soiling incidents.

Shower and Toilet Facilities

There is a shower with running hot and cold water within the detention area with the thermostat set at an optimal temperature. As a safety precaution there is no temperature control available to people in detention, but it can be adjusted on request.

The shower area was ligature minimised, had satisfactory privacy and included a light and duress alarm. However, the duress alarm was only working intermittently.

There was a commercially available drain assembly which could be used as a ligature point (this has been addressed under 'Cell Conditions' above).



Image 15: Shower

Access to Fresh Air and Natural Light

The cells have no access to fresh air but are linked to the Station's central air conditioning system, which was in good working order.

Jervis Bay experiences an oceanic climate, with mean maximum temperatures ranging from 16° C in July to 25° C in January, tempered by sea breezes and mean minimum temperatures ranging between 10° C in July and 19° C in January.

The mean annual rainfall is 1296 mm, most of which falls in autumn and winter. The wettest month is June and the driest is September.

The APT states that police cells should have natural light and ventilation, and a temperature appropriate to the climate and season.¹⁷

There was sufficient natural light in the holding cell which had four large windows facing onto Jervis Bay. This was supported by artificial lighting which was working at the time of our visit.

The Mandela Rules state that windows should be large enough to read or work by natural light without injury to eyesight.¹⁸

Interviews

We observed one interview room available for use which was located off the corridor leading to the detention area. The room was modern and well furnished with state-of-the-art digital recording built in.

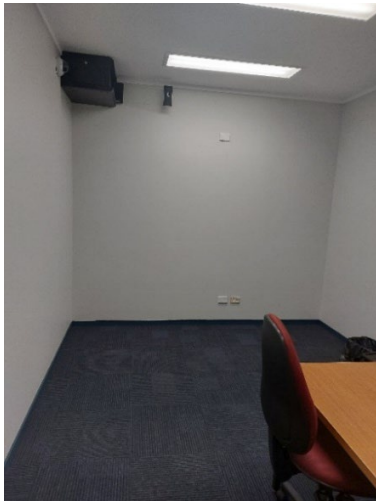
All persons being interviewed are provided the opportunity of having an interview friend or a legal representative present during interview.

¹⁷ Association for the Prevention of Torture. *Monitoring Places of Detention: A Practical Guide*. Geneva, Switzerland. p156.

¹⁸ The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rule 14.

Copies of investigative interviews are able to be immediately provided to people in detention or their legal representative.

The European Committee for the Prevention of Torture states that the electronic recording of police interviews represents an important additional safeguard against the ill-treatment of people in detention and such a facility can provide a complete and authentic record of the interview process, thereby greatly facilitating the investigation of any allegations of ill-treatment. This is in the interest both of persons who have been ill-treated by the police and of police officers confronted with unfounded allegations that they have engaged in physical ill-treatment or the application of psychological pressure.¹⁹



Images 16 & 17: Interview room showing recording equipment

Personnel

The Jervis Bay Police Station currently operates a static staffing model which includes one female Constable.

All staff perform rotating shifts and complete a 2-year rotation which is staggered to allow for continuity and consistency in service provision.

In addition, the AFP JBT are able to call on additional policing resources from the ACT or, should it be required, NSW Police.

Both the Mandela Rules³⁰ and the Bangkok Rules³¹ require that female prisoners shall only be attended and supervised by female staff.

Delivery of appropriate care to people in detention requires that an adequate number of qualified staff are available to provide that care. Staff numbers are critical for maintaining safety, security, order, and providing necessary services to people in detention. Insufficient staff can lead to challenges in managing the facility effectively and can potentially compromise the well-being of both staff and people in detention and lead to cruel, inhuman, or degrading treatment.

¹⁹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2nd General Report, s39 and the 12th General Report, s36.

Audio Visual Link (AVL)

We were advised by the OIC that works on an AVL facility had been undertaken over the previous 12 months with its first use on 13 December 2023 (a week after our visit). The AVL is located in a room within the Police Station, which operates as the Jervis Bay Magistrates Court.

The purpose of the facility is for bail application hearings and other matters that can be quickly dealt with to be held via AVL, negating the requirement to have persons in detention transported to the ACT, where they are required to find their own way back home, if they are bailed.

The system was not operational during our visit; however, we were later advised by the OIC that the system is now working and in use.

Transport and Escort

People detained by police in the JBT who are not eligible for or are refused bail are transported to the Canberra City Watch House to appear before the ACT Courts.

The transport vehicle is a purpose-built Isuzu D-Max dual cab utility with an attached detainee pod. The vehicle is relatively new and in very good condition with working CCTV and intercom between the main cabin and detainee pod.

There is also a viewing window between the main cabin and detainee pod to assist with visual monitoring of the person in detention particularly if the CCTV system is rendered inoperable.

The vehicles detainee pod has a fan but no air conditioning unit. This makes the vehicle unsuitable for use particularly on long trips to and from the ACT, which can be more than 3 ½ hours duration, sometimes in inclement weather conditions.

Placing people in detention into a detainee pod without air conditioning is incompatible with the well-being and safety of the individuals being transported. Without air conditioning the pod can become extremely hot which can lead to adverse health effects such as dehydration, heat stroke and other heat related illnesses. In extreme cases, it could even be life threatening, particularly for individuals with pre-existing health conditions or vulnerabilities.

The OIC informed us that due to both UHF radio and mobile phone reception issues, transport to the ACT is only conducted via the Princes and Kings Highways rather than the faster routes via Tarago or Braidwood.

Although this is a longer route, Police are able to maintain constant communications in the result of an accident or other adverse event.

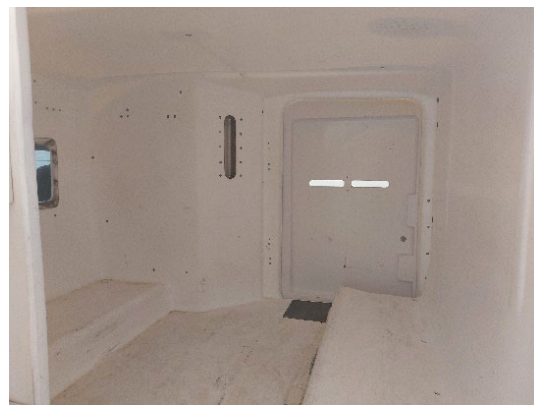
We consider this to be an example of good working practice and forethought, however this is local knowledge that is handed down during posting changes and is not incorporated into any policy or procedural document.

When we viewed the vehicle, it had returned that morning from transporting a person in detention to the Canberra City Watch House.

The vehicle first aid kit was unable to be located. The OIC indicated it was standard to have these available and undertook to ensure these were re-stocked in the vehicle.

When people in detention at the Jervis Bay Police Station are required to be taken to the Canberra City Watch House, if the person is bailed, they can be left with no means of returning back home.

Due to this shortfall in service delivery the OIC provides every First Nations person who is required to be transported to the ACT with a pamphlet for Yeddung Mura (Good Pathways). This is a non-profit Aboriginal community-controlled organisation dedicated to supporting First Nations detainees released from prisons and courts, who supply transport back to their home free of charge.



Images 18 & 19: Primary transport vehicle and detainee pod



Suggestion 14

That use of the Princes and Kings Highways for the transport of people in detention to and from the ACT be incorporated into a policy document. This policy should also address other considerations and requirements when transporting people in detention from Jervis Bay Police Station to Canberra, including frequency of comfort stops, monitoring requirements, pre-departure checks of vehicle, post transport cleaning and restocking of the vehicle, etc..

Suggestion 15

That an air conditioning unit be fitted to the detainee pod of the primary transport vehicle.

Access to a Lawyer, Visitor Access

We observed a small visitor's room with no monitoring equipment or CCTV, which is used for confidential discussions with lawyers and/or personal visitors. A glass partition separates the person in detention which has a steel plate with holes on the lower portion so conversations can be heard.

Confidential access to legal advice or assistance is fundamental for people in detention to receive fair treatment. It is an essential component of a just and equitable legal process. The *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* states that the right of a detained person to be visited by and to consult in full confidentiality, with legal counsel may not be suspended or restricted save in exceptional circumstances, to be specified by law or lawful regulations.²⁰



Image 20: Visitors room

²⁰ United Nations Office of the High Commissioner for Human Rights *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 18.*

Physical and Mental Health

Medical Care and Management

There is no medical room available at the Police Station. Medical services are provided by Nowra Hospital and Clinical Forensic Medical Services (CFMS) of ACT Health, both of which are on call 24 hrs a day.

In the event of a medical emergency, police will contact NSW Ambulance who have two stations, both of which are located less than 15 km from the Police Station.

Medical care and management of people in police custody is essential in upholding human rights, ensuring safety and well-being, addressing immediate health needs, and complying with legal and ethical obligations. It plays a critical role in preserving life, providing necessary healthcare, and promoting a just and humane treatment of individuals in the criminal justice system.

Methodology

The Commonwealth and ACT NPMs visit places of detention to:

- monitor the treatment of people in detention and the conditions of their detention
- identify any systemic issues where there is a risk of torture or ill-treatment
- make recommendations, suggestions, or comments promoting systemic improvement.

The NPMs conduct three types of visits: announced, unannounced, and semi-announced. The type, location, and timing of each visit is determined by the NPMs alone.

Each place of detention is assessed in terms of its performance based on the management and conditions for people in detention. We assess these against the 5 indicators of a healthy detention facility, adapted from those used by other international and domestic visiting bodies.

The five indicators of a healthy centre are:

Safety	people in detention are held in safety and consideration is given to the use of force and disciplinary procedures as a last resort
Respect	people in detention are treated with respect for their human dignity and the circumstances of their detention
Purposeful activity	the detention facility encourages activities and provides facilities to preserve and promote the mental and physical well-being of people in detention
Well-being and social care	people in detention are able to maintain contact with family and friends, support groups, and legal representatives, and have a right to make a request or complaint
Physical and mental health	people in detention have access to appropriate medical care equivalent to that available within the community. Stakeholders work collaboratively to improve general and individual health conditions for people in detention

The NPM Mandate

The *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) is an international human rights treaty designed to strengthen the protections for people deprived of their liberty and potentially vulnerable to mistreatment and abuse.

OPCAT does not create new rights for people who are detained, rather it seeks to reduce the likelihood of mistreatment. OPCAT combines monitoring at an international level (by the Subcommittee for the Prevention of Torture) and by NPMs at a domestic level.

NPMs are independent visiting bodies, established in accordance with OPCAT, to examine the treatment of persons deprived of their liberty, with a view to strengthening their protection against torture and other cruel, inhuman, or degrading treatment or punishment.

An NPM is not an investigative body. The mandate of an NPM working against torture is preventive: it seeks to pro-actively identify patterns and detect systemic risks of torture, rather than reacting to complaints.

In July 2018, the Australian Government announced the Commonwealth Ombudsman as the visiting body for Commonwealth places of detention (the Commonwealth NPM). At present, the Commonwealth NPM visits places of detention operated by:

- the Department of Home Affairs
- the Australian Federal Police
- the Australian Defence Force

The Australian Capital Territory (ACT) Ombudsman is part of the ACT NPM and undertakes visits of ACT Policing places of detention, which are operated by the AFP, jointly with the Commonwealth NPM.



**ACT
Policing**

08 October 2024

Iain Anderson
Commonwealth National Preventive Mechanism
Commonwealth and ACT Ombudsman

Dear Mr Anderson

(iain)

Our reference: EC24-003520

Thank you for your correspondence dated 5 September 2024.

I am writing in relation to the National Preventive Mechanism (NPM) Visit under the Operational Protocol to the Prevention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) by the Commonwealth NPM and your office at Jervis Bay Police Station on 6 December 2023.

Thank you for providing your Post Visit Summary (the Report). ACT Policing appreciates the opportunity to provide comment on the Report and a response to the findings and associated suggestions. ACT Policing has developed a preliminary high-level response to your suggestions in **attachment A** below and acknowledges progress against the suggestions will be monitored in the next OPCAT inspection. ACT Policing is committed to addressing the issues raised in the Report, including progressing further initiatives to achieve a high level of ongoing compliance throughout our facilities.

ACT Policing notes the Report will be made publicly available on the Ombudsman's website. No sensitive information has been identified and I support the Report's publication in full.

Should you require any additional information please contact acting Coordinator, Legislation and Governance,

[Redacted]

[Redacted]

Deputy Commissioner Scott Lee APM
Chief Police Officer for the ACT

Chief Police Officer for the ACT
GPO Box 401 Canberra ACT 2601
Telephone: 02 5127 4015
Email: CPOACT@afp.gov.au



Jervis Bay Police Station

#	Suggestion/Recommendation	ACT Policing Comment
1	Where a range of fire extinguishers are available for use, fire extinguisher charts outlining the different types of fire extinguishers, and their uses should be located in areas highly visible to all staff.	<p>Accepted/Actioned</p> <p>OIC Jervis Bay has had commercially available charts printed, laminated and mounted on the wall next to the station fire extinguishers. The use of fire extinguishers has been added to the station Watch House procedures.</p>
2	That the sallyport camera be replaced with a camera that has a field of view that covers the entire sallyport area, or a second camera is installed to eliminate blind spots with the current system.	<p>Accepted/In Progress</p> <p>ACTP Radio & Technical Services have undertaken initial station visit to identify issues with detention area cameras, intercoms and alarms. Currently awaiting development of Statement of Requirements and cost estimate for development of procurement request.</p>
3	That all duress alarms be inspected with all faults being rectified and that they be tested, and results recorded, as part of a regular inspection regime, whether the cells are in use or not.	<p>Accepted/In Progress</p> <p>ACTP Radio & Technical Services have undertaken initial station visits to identify issues with detention area cameras, intercoms and alarms. Currently awaiting development of Statement of Requirements and cost estimate for development of procurement request. OIC Jervis Bay has added regular inspection of equipment to the station Watch House procedures.</p>
4	That Oleoresin Capsicum (OC) foam be made available for use in the detention area to avoid overspray and over deployment of streamer type chemical agents that may affect other people in detention who are not the subject of the deployment	<p>Accepted/Actioned</p> <p>OIC Jervis Bay has contacted the AFP National Armoury and ordered foam OC for use in the detention area. Order has been approved and is awaiting either Courier or hand to hand delivery to the station. The use of foam OC spray has been added to the station Watch House procedures.</p>
5	That all intercoms be inspected with all faults being rectified and that they be tested, and results recorded, as part of a regular inspection regime, whether the cells are in use or not.	<p>Accepted/In Progress</p> <p>ACTP Radio & Technical Services have undertaken initial station visits to identify issues with detention area cameras, intercoms and alarms. Currently awaiting development of Statement of Requirements and cost estimate for development of procurement request. OIC Jervis Bay has added regular inspection of equipment to the station Watch House procedures.</p>
6	That measures be taken in the holding cell to provide privacy for people in detention from both the cell window and cameras when toileting, while still allowing sight lines to the upper body for officers to maintain visibility for security and safety purposes.	<p>Accepted/In Progress</p> <p>OIC Jervis Bay has submitted a work order form for installation of privacy screen.</p>

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7	That information regarding access to legal advice, complaints bodies and mechanisms for making a complaint be mounted in prominent places for people in detention to see. This information should also be accessible to persons with language or understanding difficulties.	<p>Accepted/Actioned</p> <p>OIC Jervis Bay has printed information from the AFP Hub information regarding access to legal advice, complaints bodies and mechanisms for making a complaint and has displayed it within the custodial area. OIC is following up language diverse versions of this information and will add to the display as available.</p>
8	That the AFP Compliments and Complaints brochure be given to all persons in detention upon leaving custody.	<p>Accepted/Actioned</p> <p>OIC Jervis Bay has obtained paper-based versions of the online Digiflow complaints form and placed in the custodial area of the station. OIC Jervis Bay has also placed documentation that outlines people’s rights when held in custody and mechanisms to report complaints in the custody area. The provision of AFP Complaints information to all persons held in detention has been added to the station Watch House procedures.</p>
9	That a supply of clothing for males and females of different sizes be held on site for the use of people in detention	<p>Accepted/Actioned</p> <p>OIC Jervis Bay has submitted a funding request for purchase of a range of clothing, which has been approved. OIC Jervis Bay will purchase basic clothing that fulfills the requirement. The availability of clothing for persons held in detention has been added to the station watch house procedures.</p>
10	That minimum exercise requirements be allowed for all persons held in custody with appropriate supervision.	<p>Accepted/Actioned</p> <p>There is a small exercise area available to persons held in custody. The provision of allowed exercise requirements has been added to the station Watch House procedures.</p>
11	A review should be undertaken to remove all potential ligature points including replacing all commercial drain assemblies with assemblies of a Crocodile Roll Resistant (CRR) design.	<p>Accepted/In Progress</p> <p>OIC Jervis Bay has submitted a work order for installation of Crocodile Roll Resistant (CRR) design drain assemblies.</p>
12	That all contracted cleaners and police (if they are required to clean cells) undertake formal training in forensic cleaning and be provided with the appropriate products.	<p>Accepted/In Progress</p> <p>OIC Jervis Bay has engaged with cleaning service provider JLL who advise under current commercial contract the provision of this training to cleaners is not available or being considered. ACTP Domestic External Territories have contacted ACTP Commercial to seek advice on whether these service requirements can be included in future contracts. It should be noted that the remote location may impede suitably trained cleaners being engaged.</p>

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13	That cleaning contracts include an on-call provision to allow for cleaning to be undertaken at short notice in the event of self-harm or soiling incidents.	Accepted/In Progress OIC Jervis Bay has engaged with cleaning service provider JLL who advise under current commercial contract the provision of this training to cleaners is not available or being considered. ACTP Domestic External Territories have contacted ACTP Commercial to seek advice on whether these service requirements can be included in future contracts. It should be noted that the remote location may impede suitably trained cleaners being engaged.
14	That use of the Princes and Kings Highways for the transport of people in detention to and from the ACT be incorporated into a policy document. This policy should also address other considerations and requirements when transporting people in detention from Jervis Bay Police Station to Canberra, including frequency of comfort stops, monitoring requirements, pre-departure checks of vehicle, post transport cleaning and restocking of the vehicle, etc.	Accepted/Actioned OIC Jervis Bay has added a section on the considerations and requirements when transporting people in detention from Jervis Bay Police Station to Canberra to the station Watch House procedures. A check list has been included for easy reference of members, given the infrequent nature of these detainee transports.
15	That an air conditioning unit be fitted to the detainee pod of the primary transport vehicle.	Accepted/In Progress ACTP Domestic External Territories has approached ACTP Fleet Services for options on adding air conditioning to current detainee transport vehicles and/or adding the requirement to future vehicle procurements.

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Commonwealth Ombudsman

Level 5, 14 Childers Street

Canberra ACT 2600

Tel: 1300 362 072

Email: ombudsman@ombudsman.gov.au