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The use of segregation for children in the Northern Territory Youth Detention System

Submission to the Royal Commission into the Protection and Detention of Children in the Northern Territory

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Cover Image: Child in segregation at the Don Dale Youth Detention Centre, Berrimah. Photograph: Australian Broadcasting Commission (2016).

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NOTE ON TERMINOLOGY

In this submission, the term ‘Aboriginal’ and ‘Indigenous’ are used inclusively to refer to Aboriginal and Torres Strait Islander peoples.

DISCLAIMER

This report draws on a review of research conducted by the author using publically available information. The author has relied on that information being accurate. An audit to verify the accuracy or completeness of the information has not been conducted and accordingly the author cannot accept responsibility for any errors or omissions in the information.

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About the author

Dr Elizabeth Grant is an architectural anthropologist and senior research fellow working in the field of Indigenous Architecture within the Office of the Deputy Vice Chancellor and Vice President (Academic) at the University of Adelaide.

In 2000, Dr Grant had been researching in the field of Indigenous architecture for two decades, when she was approached by the Aboriginal Legal Rights Movement of South Australia to accompany an Aboriginal mother to the inquest into her son's death in prison. The inquest triggered Dr Grant's interest in the cultural suitability, safety and appropriateness of the prison environments for Aboriginal people. She concluded at the time that the conditions of prisons breached the recommendations laid down by the Royal Commission into Aboriginal Deaths in Custody. The lack of understanding of the environmental needs of Indigenous people and the impact that could have on an individual's prison experience was very apparent to her. Given the massive over-representation of Aboriginal people in Australia's prison system, Dr Grant commenced research into this area working under the premise that if there must be prisons, they should be culturally, emotionally and physically safe environments which recognise and value Aboriginal people's diverse experiences of the world.

Dr Grant's PhD research entitled *Towards Safer and more Congruent Prison Environments for Male Aboriginal Prisoners. A South Australian Study* (2008) was the first empirical study of its type and examined Aboriginal people's preference for particular kinds of prison environments as a mechanism to reduce negative behaviour including deaths in custody and self-harm in prison environments. In her research she interviewed over 100 prisoners and visited every prison in Australia.

Since that time, Dr Grant has spent over a decade conducting evidence based research and her work has led to major changes in the way prisons are designed for Indigenous peoples nationally and internationally. Dr Grant has published extensively on the topic of prison environments for Indigenous prisoners, while tackling issues confronting correctional agencies such as overcrowding, temperature control, ligature points, conditions for women prisoners, human rights and other factors affecting the prison experience.

The application of her evidence-based research has led to greater understandings of the needs of Indigenous prisoners and the development and adoption of documents such as the *Minimum Standards for Aboriginal Prisoners Western Australia* and the conceptualisation and design of the West Kimberley Regional Prison Project. Dr Grant also works with correctional agencies, government departments, other academics, the legal fraternity, the judiciary, coroners and the Aboriginal community to improve outcomes for Indigenous prisoners, the staff who work with them, prisoners' families and communities.

Dr Grant has also been engaged by architectural firms to work with architects and design teams on prison projects including: the New Grafton Prison, Victorian Prison Projects, Eastern Goldfields Regional Prison Project, Acacia Prison Expansion Project, Northern Territory Secure Facilities Project, Eastern Goldfields Regional Prison Project, South Australian Prison Project and the master planning of the Future Prison Projects in the Northern Territory.

Dr Grant has received numerous awards for her work including been named as a Sir Winston Churchill Fellow and being awarded the International Prisons and Correctional Association's (ICPA) Excellence in Research Award in 2015 for her pioneering work.

Introduction

The Northern Territory youth detention system is broken. This is evidenced by the high level of critical incidents and alleged abuses to children occurring in custody. One of the principal contributors to the failure of the system has been its use of segregation.¹ As an important starting point for the Royal Commission into Youth Detention and Child Protection, the use of segregation on children must be examined.

To understand the behaviours of the children in custodial settings that result in them being placed in segregation, it is useful to review literature on the responses to imprisonment. The theory in this area comes from the multidisciplinary field of environmental psychology, which examines the relationship between the environment and its inhabitants. Using theoretical models can assist in the understanding, design, management, and/or restoration of environments that enhance reasonable behavior (and predict the likely outcomes when these conditions are not met).

Responses to imprisonment

Within the *Review of the Northern Territory Youth Detention System Report*, it was reported:

YDCs [Youth Detention Centres] in the NT have been required to respond to higher numbers of detainees especially those exhibiting complex and violent behaviours. During the past two years in particular, there have been major incidents where difficult and disruptive detainees have compromised the safety and security of the centres – putting staff, other young people and the community at risk (Vita 2015:10).

The Australian Productivity Commission’s report on Youth Justice Services (2015) illuminates the extent of concerning behaviours being exhibited by children being held in detention in the Northern Territory. In the 2013-14 period, half of the escapes² of youth detainees across Australia occurred in the Northern Territory and in the following year that number increased fourfold (see table 1). During the 2013-14 period, the Northern Territory recorded the highest rate of children self-harming or attempting suicide in custody (not requiring hospitalisation),³ a rate of per 10 000 custody nights of 7.2 for Indigenous children and a (extraordinary) rate of 45.2 for non-Indigenous children (see table 2). Nationwide, the Northern Territory had the highest level of children self-harming or attempting suicide in custody not requiring hospitalisation.

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	AUS
Number of Escapes 2013-2014	-	1	-	-	-	3	-	4	8
Number of Escapes 2014-2015	-	2	-	-	-	-	-	12	14

Table 1: Escapes from youth justice detention centres 2013-15 (adapted from Australian Productivity Commission 2015; 16: 16.24)

¹ This report deals on with the detention of children in youth detention or justice centres. A youth justice centre is defined by the Australian Productivity Commission as “[a] place administered and operated by a youth justice department, where young people are detained while under the supervision of the relevant youth justice department on a remand or sentenced detention episode” (2015: 16.36). This report does not extend to the issues of children detained in police custody.

² An escape from a youth justice detention centre is defined as a breach of a secure perimeter or defined boundary of a youth justice detention centre by a young person under the supervision of the centre (*ibid* 2016: 16.23).

³ Types of self-inflicted incidents that constitute self-harm include poisoning by drugs, alcohol, gases and vapours, hanging, strangulation, suffocation, drowning or submersion in water, burning, cutting, jumping from a high place, jumping or lying in front of a moving object, and electrocution (*ibid* 2016: 16.29).

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Number of detainees who self-harmed or attempted suicide in custody not requiring hospitalisation	14	4	10	na	6	0	4	15

Rate per 10 000 custody nights								
Aboriginal and Torres Strait Islander Children	1.7	0	1.6	na	4.1	0	10.3	7.2
Non-Indigenous Children	0.9	0.9	1.3	na	1.8	0	5.1	45.2
Total	1.2	0.8	1.5	na	2.9	0	6.8	8.9

Table 2: Number of detainees (and rate per 10 000 custody nights) who self-harmed or attempted suicide in custody not requiring hospitalisation 2013-14 (adapted from Australian Productivity Commission 2015: 16.31).

Applying theory to understand the behaviour of youth detainees taking into account the reported conditions of incarceration in Youth Detention Centres in the Northern Territory, it becomes apparent that actions of the detainees may have been predictable. It is somewhat surprising that desperate behaviours did not occur more frequently.

The impacts of imprisonment on the individual have been well documented. The unique environmental experiences of prison may evoke extreme and complex responses with individuals responding to the loss of liberty, autonomy, goods, services, heterosexual relationships and personal security (Sykes 1958) with a range of emotions and behaviours (Zamble and Porporino 1990; Zamble 1992). Individual responses to prison environments vary. Taylor and Cohen's studies of long-term maximum-security prisoners identified five types of behaviours occurring in response to the prison environment defined as self-protecting, campaigning, escaping, striking, and confronting behaviours (Taylor and Cohen 1972).

The researchers termed these 'resistance behaviours' noting that the behaviours were not exclusive or sequential and could occur as individual or group actions. As such, a prisoner could individually campaign whilst being involved in a collective action to escape. Self-protecting behaviours were noted to include behaviours such as situational withdrawal (e.g. retreating to sleep, reverting to the foetal position). Campaigning behaviours included actions such as seeking moves to alternative accommodation or appealing sentences, attempting negotiation, setting up grievance committees, and submitting personal grievances and appeals. Escaping behaviours included attempting to physically escape, self-harming behaviours or suicide, or retreating to 'safe' areas of the prison or isolating oneself. Striking behaviours included refusal to adhere to situational demands, and confrontational behaviours included such avenues as: riots, disturbances, hostage taking, and suicide (Taylor and Cohen 1981). A diverse range of emotions and behaviours occur in response to custodial environments.

Researchers view resistance behaviours as a continuum of behaviours rather than singular acts. The people-environment interaction is dependent on a complex interplay of a number of factors as the prisoner attempts to regain control of their environment. The consequences of resistance behaviours in the custodial environment can be life threatening, costly and politically sensitive. Poor or inappropriate accommodation has been identified as catalysts for critical incidents, riots and disturbances in prisons (Toch 1992), and may lead to individual self-harming or suicidal or other non-compliant behaviours among prisoners (Reser 1989) contributing to a variety of other poor outcomes for prison communities and prisoners (including diminishing mental health) (Krauth and Clem 1987).

Providing a ‘normalised’ custodial environment which fits the environmental and cultural needs of the user group is paramount to reducing the impact of the prison environment on the individual.⁴ The designed environment should mirror and promote activities and routines which may occur in outside society. Levels of security in prison environments should be proportional to the ‘risk’ a person presents to society and provide the prisoner with the highest achievable level of personal control over their environment.

In contrast to such approaches, the Northern Territory has not developed detention centres to fit the specific needs of its user group of children and as documented (Australian Broadcasting Commission 2016), and saw the need for staff to routinely resort to segregating their young charges (and, at times using mechanical restraints, weapons, dogs and chemical agents) to ‘control’ their behaviour.⁵ This is a matter of grave concern.

What is segregation?

Segregation is the practice whereby people are held in solitary confinement, generally isolated from human contact (apart from prison staff). In some instances, segregation is employed as a form of punishment beyond incarceration for a prisoner, usually for violations of the institution’s regulations; however, people deemed ‘at risk’ of suicide or self-harming are also routinely held in segregation. Segregation is also routinely used in Australia where a prisoner is being investigated for infractions or at ‘high risk’ and ‘unable to be housed’ in the mainstream population of an institution for a variety of reasons. Where prison systems are overcrowded, prisoners on transfer (i.e. prisoners being transferred between prisons for court appearances, medical appointments, etc.) are commonly housed in segregation in the short term due to bed shortages in other types of accommodation.

Most prisons and detention centres have segregation units. These are generally separate from other housing units and are fitted with maximum security features. Within such units there are likely to be several types of cells. The majority of cells in segregation units have minimal features such as a toilet/basin, concrete bed base and mattress. Prisoners spend most of the day locked up with no meaningful activity or human interactions. Exercise usually takes place alone in an exercise room or a fenced or walled run.

A different form of segregation involves cells that are referred to as ‘assessment cells’,⁶ which are used to house inmates who are ‘at risk’ of self-harm. In Australian prisons and detention centres, these cells are located within segregation units and generally under separate camera observation. Fittings in such cells are limited and in some locations, the cell only contains a drain and the prisoner is “...stripped of all clothing and possessions in an effort to reduce the chances of harmful behaviour” (McArthur et al. 1999:3). The most extreme regime involves the prisoner to be stripped of all clothing and given a smock and bedding made of tear-proof material and observed continuously (generally via CCTV and/or an officer placed outside the cell).

⁴ Understandings of what constitutes a ‘best practice’ juvenile detention centres are limited. As Grant notes “...it is evident that that the intricacies of designing custodial environments for young offenders are not fully understood” (2013:54). The Northern Territory juvenile prison population constitutes consists predominately of Aboriginal young people from a range of urban, rural and remote settings with diverse environmental and cultural needs. While research has been completed to provide design guidelines for the design of custodial environments for Aboriginal adult prisoners (see, Grant 2016: 42), little is known about ‘best practice’ custodial design for Aboriginal children.

⁵ In response to critical incidents (the display of resistance behaviours by the detainees), children were moved three times. “The Don Dale YDC, commissioned in 1991, was closed in September 2014, in response to a series of serious incidents at that centre” (Vita 2015: 8) and the children moved to an interim unit within adult Darwin Correctional Centre (Doug Owston Correctional Centre). Then “...due to a series of serious incidents ...culminating in extensive malicious damage and attempted escape, detainees were moved to the former Berrimah Correctional Centre on 23 December 2014.” (Vita 2015:8).

⁶ The terminology for such cells varies between sources. Camilleri et al. (1999) use the term ‘strip cells’ with other sources using a variety of names including ‘isolation cells’ (Australian Law Reform Commission 1997), ‘Muirhead cells’, ‘segregation cells’, ‘wet cells’ (Victorian Correctional Services Taskforce 1999), ‘segregation or isolated detention’ (Commonwealth of Australia 1991) and ‘observation cells’ (Commonwealth of Australia 1991).

Another form of segregation occurs within the increasing number of super-max units and super-max prisons around Australia (Grant and Jewkes 2015). Such units and prisons, built to house the most dangerous prisoners and those charged with terrorist offences, have been commonly criticised for their lack of natural light and airflow, isolation, deprivation of association, harsh environments, and regimes (see, for example, New South Wales; Ombudsman, 2008).

The evolution of the segregation cells and units in Australia

Segregation cells within modern prisons are generally located in a separate unit away from mainstream prisoner accommodation, which points to a reminder of their evolution from traditional punishment cells. Historic literature documenting the use of punishment cells notes that often they were used to accommodate prisoners with mental health issues as well as recalcitrant prisoners (Criminal Law and Penal Methods Reform Committee of South Australia 1973; Kerr 1988).

Kerr provides descriptions of early punishment cells or ‘black holes’ in the Australia prison system as “...a small detention chamber. It was supposed to be ventilated and was either windowless or fitted with a shuttered window by which light would be excluded.as there was a persistent thought that darkness tended to quiet the enraged criminal or lunatic” (Kerr 1988:152). The presence of punishment cells for the ‘mad’ and the ‘bad’ are documented in prison diaries, newspaper reports and relatively recent judicial inquiries (see for example, Parliament of South Australia 1975; Nagle 1978; Parliament of South Australia 1987; Legislative Council Parliament of South Australia 1990; Parliament of South Australia 1990; Telfer 2003).

Prison reform across Australia in the 1970s and 80s (arising from the Nagle Royal Commission) led to a rethinking of the notions of punishment cells and units. Separate units which segregated recalcitrant prisoners for the good order of the institution and their own protection were developed and replaced the Dickensian ‘punishment’ cells. These units often contained a small number of cells with few facilities to accommodate a prisoner ‘acting out’. ‘At risk’ and/or psychiatrically ill prisoners continued to be housed in the segregation units.

The development of a separate observation cell with minimal fittings occurred upon the release of interim findings of RCIADIC (Commonwealth of Australia 1988). The interim report suggested:

A task force should be established among the Police Departments, in consultation with the Australian Institute of Criminology to establish a standard and program for the upgrading of police cells to a level where the opportunity for death by suicide is substantially reduced by appropriate cell design and equipment (Commonwealth of Australia 1988:40-41).

While the recommendations were focused on police stations and watch houses, correctional administrations around Australia raced to install observation or ‘Muirhead’ cells. Typically, the fit outs varied from padded sensory deprivation chambers to cells where all hanging points had been removed leaving an environment with little more than a drainage point.

By the time of the release of the final report of RCIADIC, there was condemnation of the use of observation cells. Despite extensive evidence indicating that segregation cells are detrimental to the health of prisoners (see below), segregation continues to be used as a ‘suicide prevention’ strategy and behavioural management tool in Australian custodial settings.

The impact of segregation on the individual

A number of authors have used the theoretical understandings of stress reactions to propose that being imprisoned in segregation undermines personal coping mechanisms. Studies from sensory deprivation and social isolation, suggest extreme anxiety and heightened suggestibility occurs in individuals, even after short

periods in isolation (Suedfeld 1974; Suedfeld 1980; Fisher 1994). Further symptoms include hypersensitivity to external stimuli, hallucinations, panic attacks, cognitive deficits, obsessive thinking, paranoia, and a litany of other physical and psychological problems. Psychological assessments of prisoners in solitary confinement have indicated high rates of anxiety, nervousness, obsessive rumination, anger, violent fantasies, nightmares, trouble sleeping, as well as dizziness, unduly perspiring hands and heart palpitations attributable to being placed in segregation.

Although psychological effects are most common and usually dominant, physiological effects are nevertheless commonly reported. Some of these may be physical manifestations of psychological stress, but the lack of access to fresh air and sunlight and long periods of inactivity are likely also to have physical consequences. Grassian and Friedman (1986) list gastro-intestinal, cardiovascular and genito-urinary problems, migraine headaches and profound fatigue. Shalev notes that other signs and symptoms recorded by some of the studies reviewed include; “heart palpitations (awareness of strong and/or rapid heartbeat while at rest), diaphoresis (sudden excessive sweating), insomnia, back and other joint pains, deterioration of eyesight, poor appetite, weight loss and sometimes diarrhoea, lethargy, weakness, tremulousness (shaking), feeling cold and aggravation of pre-existing medical problems” (2008: 15).

The use of segregation for people displaying ‘at-risk’ behaviours has been universally condemned (Reser 1989; Howard League for Penal Reform 1991; Commonwealth of Australia 1991; Hayes 1995; Eylandt et al. 1997; Dear et al. 1998; Camilleri et al. 1999; Dear 1999; Howells et al. 1999; Cohen 2011). Prisoners housed in segregation are compelled to ruminate on the stressor and their inability to deal with it, thus increasing their distress and increasing the risk of suicide and self-harm. The literature notes that the majority of prison suicides occur whilst the prisoner is alone with the majority of suicides occurring when the person is in isolation or segregation (Hayes 1983; Home Office 1984; 1990; Scott-Denoon 1997). This indicates that a potentially suicidal prisoner should not be removed from the general population in the first place (Victorian Correctional Services Taskforce 1999; Cohen 2011). Howells et al further note that prisoners may be confused and unclear as to whether they are being treated or punished when they are placed in an observation cell and the environment itself may be hostile, often housing prisoners who are ‘acting out’ with officers consequently being required to exert physical control. The presence of prisoners undergoing punishment results in an atmosphere that is punitive and coercive rather than therapeutic. Observation is an isolating experience that is likely to exacerbate the level of distress and suicidal rumination (Howells et al. 1999:161).

The psychological and physiological issues for Aboriginal prisoners in segregation are amplified due to specific cultural needs. Family and kin is the core of Aboriginal life and often the only constant in the lives of Aboriginal people (Berndt and Berndt 1992: 412). Aboriginal prisoners separated from countrymen, family and kin suffer emotional and spiritual distress beyond that imposed upon non-Aboriginal prisoners. Given this, RCIADIC suggested “...that it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention” (Commonwealth of Australia 1991:334). It was noted with “concern that attempts to reduce opportunities for suicide [i.e. housing an Aboriginal prisoner in segregation to reduce the risk of self-harming] may increase alienation and disorientation and thus increase the probability that detainees may engage in self-destructive behaviour” (Reser 1989: vi).

The issues in using segregation on Indigenous people are compounded when consideration is given to number of Aboriginal prisoners living with physical and psychosocial disability. Levels of disability in the Indigenous population are underreported and many Aboriginal people do not identify as having a disability due to variety of reasons. It is known that Indigenous people with profound or severe physical, intellectual and cognitive disabilities are being imprisoned at alarming rates (Grant 2016:24).

There are also concerns regarding using segregation for juveniles. Experts agree that the harms identified may be more pronounced for juveniles. Solitary confinement “...has a distinct and particularly profound impact on young people, often doing serious damage to their development and psychological and physical well-being. Because of the special vulnerability and needs of adolescents, solitary confinement can be a particularly cruel

and harmful practice when applied to them” (Human Rights Watch and the American Civil Liberties Union 2012:22). While there are no studies that “look specifically at the effects of prolonged solitary confinement on adolescents, many experts on child and adolescent psychology [contend that solitary confinement] can cause or exacerbate mental disabilities or other serious mental health problems” (ibid 2016:24).

Banning the use of segregation for children

Given the overwhelming evidence of the potential harms of segregation, some countries have revised their use of penal segregation, especially in regard to juveniles. The United States began to reconsider the human rights, fiscal, and public safety implications of the use of penal segregation post 2012 (see, for example, Committee on the Judiciary United States Senate 2012). In a submission to the Senate Committee, Professor Emeritus of Yale Law School, Fred Cohen noted that:

...the contemporary use of penal isolation is one of the most psychologically damaging, penologically unnecessary, and needlessly expensive correctional measures currently in use. Whether analyzed from a human rights or an empirical perspective, our current practices with penal isolation are properly subject to condemnation and candidates for early reform (Committee on the Judiciary United States Senate 2012: 308).

In 2012, the American Academy of Child and Adolescent Psychiatry released a policy statement opposing the use of solitary confinement in correctional facilities for juveniles, stating:

The potential psychiatric consequences of prolonged solitary confinement are well recognized and include depression, anxiety and psychosis. Due to their developmental vulnerability, juvenile offenders are at particular risk of such adverse reactions. Furthermore, the majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement (Juvenile Justice Reform Committee, American Academy of Child and Adolescent Psychiatry 2012)

The Academy called for an evaluation by a mental health professional of any child or youth confined for more than 24 hours. In 2013 the United Nations Special Rapporteur on Torture, stated that the effect that a prolonged period in isolation can have on a child’s mental health is so severe that countries should implement “an absolute ban” on solitary confinement and seclusion of any duration for children as well as people with psychosocial disabilities. Similarly, in 2014 the American Medical Association approved a resolution saying solitary confinement is detrimental to adolescent health and should be prohibited, except for extraordinary circumstances, such as those that involve protection of the juvenile, staff, or other detainees (Moran 2014).

In 2015, President Obama announced a review of ‘the overuse of solitary confinement across American prisons’ (US Department of Justice 2016:1) and bipartisan legislation was introduced into Congress to ban punitive solitary confinement for juveniles in federal custody (Kraner et al. 2016:3). A year later, the US Justice Department released its *Final Report and Recommendations concerning the use of Restrictive Housing*. The report outlines principles to reduce the use of segregation, in particular reforms for special needs groups (including people with a serious mental illness and juveniles), which include:

Prevention. These reforms are designed to prevent the type of disruptive behavior that often results in segregation. The policies make it easier for correctional staff to identify inmates who are prone to violence, victimization, and/or mental health issues, facilitating early intervention. Among other things, these policies include behavioural and contingency management tools, as well as risk assessment programs.

Specialized, or ‘mission-specific’ housing units. These reforms involve the creation of specialized housing units for those inmates who require removal from the general population, but typically do not

require the type of restrictions typically found in a 'traditional' segregation unit. These mission-specific programs include units for inmates with serious mental illness and those requiring protective custody.

Stricter rules for placement and length of stay. These reforms limit when, why, and for how long an inmate can be placed in restrictive housing, especially in cases involving disciplinary or preventative segregation. Some jurisdictions have narrowed the list of offenses that are punishable by restrictive housing. Some have also imposed limits on the amount of time inmates can be held in restrictive housing, which can apply to specific categories of inmates (e.g., juveniles and inmates with serious mental illness), or to certain types of segregation (such as maximum penalties for disciplinary violations). Some jurisdictions have effectively eliminated restrictive housing for certain populations, such as juveniles (US Department of Justice 2016: 72-73).

Kraner et al. (2016) reviewed correctional practice across the US and found 29 jurisdictions prohibit the use of punitive solitary confinement in juvenile correctional facilities by law or practice due to growing understanding of the ill-effects and overuse of segregation.

Despite the overwhelming evidence to the contrary, the majority of Australian jurisdictions⁷ still allow segregation of detained children. To the contrary, the Australian Children's Commissioners and Guardians reported that "[s]egregation can be used as a legitimate behaviour management tool or an emergency safety measure [and, in the author's view inexplicably] provided it does not place restrictions on a child's access to education, physical activity or family contact" (2016: 63).

There is also evidence to demonstrate the presence of segregation cells in detention centres sends an incorrect message about the type of environment to staff. Staff have the capacity to use segregation as a behaviour management 'tool' and may choose to regularly use this instead of developing those human relationship skills that will fit them for dealing with their charges. The capacity for segregation to occur with alarming regularity has already been seen at the Don Dale Youth Detention Centre in 2014. Cohen noted that "segregation is an easy response and requires no thinking or planning; no work at changing offenders' behaviors. For some officers, it is an ideal assignment: no real interaction with inmates, nothing but control is on the daily menu" (Committee on the Judiciary United States Senate 2012: 308).

⁷ Note recent legislative changes to the Youth Justice Administration Act (South Australia) (2016), have prohibited children under 12 years being held in segregation (see Sect. 28).

Summary and recommendations

The Northern Territory has the highest rate of detention based supervision of children in Australia (a rate of 180.4 per 100 000 of young people aged 10-17 years) (see table 3).



Table 3: Young people in detention-based supervision 2014-15 (rate per 100 000 of young people aged 10-17 years) (adapted from Australian Productivity Commission 2016).

Given the extraordinarily high rate of detention based orders issued in the Northern Territory and the knowledge that custodial sentences are not in the best interests of society or offenders, it is suggested that in the first instances:

- Alternatives to detention based orders for young people be fully examined and considered.

The Children’s Commissioner (2015) and the Australian Broadcasting Commission (2016) have revealed the shambolic approach, the inhumane nature and practices and inappropriate and unsafe custodial accommodation for the custody of young people in the Northern Territory. The Royal Commission into Youth Detention and Child Protection has the responsibility of addressing and reforming an essentially broken system. A key component of the reform of detention based supervision is to address the key components which contribute to a broken system. The use of segregation has adverse impacts on emotional, psychological and physical well-being of the individual, in particular children, and should be banned. It is highly recommended that:

- The use of segregation for children in the Northern Territory should be banned.
- Segregation should not be used within detention based supervision.
- Young people exhibiting ‘at risk’ behaviours should be transferred to a hospital or residential mental health facility.

Reports indicate that young people subject to detention based orders are housed in inappropriate and inhumane environments (see Children's Commissioner 2015) and the Northern Territory lacks appropriate or adequate infrastructure and equipment (Vita 2015:50). Given that little is known about designing custodial environments for young offenders, and more particularly about the diverse environmental and cultural needs of young Aboriginal people, the Royal Commission should consider the evidence-based research into type and design of humane and safe custodial environments appropriate for Aboriginal young people. Thus, it is recommended that:

- Evidence-based research into the needs and design of humane and safe custodial environments appropriate for Aboriginal young people in the Northern Territory be conducted.
- Consultation and master planning exercises be conducted to investigate humane and culturally appropriate housing options for young people subject to detention based orders.
- Safe, humane and appropriate facilities and infrastructure be developed for young people subject to detention based orders.

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