

AMNESTY INTERNATIONAL



12 January 2018

The Hon Fran Logan MP
Minister for Corrective Services
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Dumas House
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Dear Minister,

I write to you in regards to the case of [REDACTED], a 17-year-old boy in the State's care at Banksia Hill Detention Centre. Please note that this letter follows the letter to you on the 14 December 2017 regarding the case of [REDACTED] to which we have not yet received a formal response.

We understand that [REDACTED] has been held in the Harding Unit, away from the general population of the centre, during his three periods of detention at Banksia Hill, between May 2017 until present. Amnesty International has concerns that [REDACTED] was held in isolation in Harding Unit for:

- at least two weeks from 5 May 2017, being moved there after an incident;
- at least two weeks in August 2017 after his re-admission;
- at least two weeks in September 2017 after his re-admission; and
- other variable periods of time between May 2017 and January 2018.

[REDACTED] has reported to Amnesty International Australia in an interview held at the centre that, during these periods of isolation, [REDACTED] was:

- a) held in his cell for more than 22 hours per day, continuously for at least two weeks;
- b) denied access to shower for on some days;
- c) held in the Harding Unit without any electricity for approximately two weeks;
- d) subjected to having his bed stripped each morning, leaving him only with a mattress until 3pm at the earliest, requiring him to earn the privilege of the return of sheets, doona and a pillow;
- e) denied access to his psychologist for at least the first two weeks after the 5 May incident;
- f) denied access to education;
- g) denied access to programs and services;
- h) fed via a "grill" in the cell, without cutlery, or ordered to go into a corner or face the wall with his hands on his head before food was brought in;
- i) handcuffed and accompanied by up to four guards during out-of-cell time; and
- j) only allowed out of the cell:
 - i) during May isolation: for 10-minutes out of his cell each day to make a phone call;
 - ii) during August isolation: for 30 minutes per day to make a phone call or to exercise;
 - iii) during September isolation: for 30 minutes per day to exercise, and further time to have a shower.

Amnesty International Australia is concerned that the above claims contravene the *Young Offenders Act 1994* (WA) specifically:

- a) s173(2)(e): that detention offences can be dealt with by confining a detainee to sleeping quarters or a designated room for a period not exceeding 24 hours if the order is made by the superintendent; or for a period not exceeding 48 hours if the order is made by a visiting justice.

Furthermore, Amnesty International Australia is concerned that the above claims contravene the *Young Offenders Regulations 1995* (WA), specifically:

- a) s76(3): A detainee confined under this Division is entitled to fresh air, exercise and staff company for a period of at least 30 minutes every 3 hours during unlock hours.
- b) s79(4): A detainee whose confinement is for 12 hours or longer is entitled to at least one hour of exercise each 6 hours during unlock hours.

- c) s77: A detainee placed in confinement must be subject to continuous monitoring for the first 30 minutes of that confinement, and after the first 30 minutes of confinement, a confined detainee must be subject to regular monitoring carried out in accordance with a written management regime that has been endorsed by the superintendent.

The *Standard Minimum Rules for the Treatment of Prisoners* (known as the Mandela Rules) and the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* strictly prohibit the use of solitary confinement for children in detention. The UN Rules state that: "All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned." The Mandela Rules define solitary confinement as: "the confinement of prisoners for 22 hours or more a day without meaningful human contact."

Amnesty International is concerned that ██████ treatment meets the definition of "prolonged solitary confinement" (solitary confinement for at least 15 consecutive days) which constitutes cruel, inhuman and degrading treatment, and may amount to torture, under the *Convention Against Torture*, which Australia has ratified.

Further, there are a number of potential breaches of ██████ human rights, including denial of basic rights such as hygiene, exercise and human contact, denial of education, programs and services, denial of access to adequate medical treatment including mental health care, excessive use of force and disproportionate use of restraints. Amnesty International is also concerned about the degrading treatment inflicted on ██████ including methods of accessing his food and the stripping of bed materials.

The claimed isolation of ██████ during his three periods of detention at Banksia Hill, between May 2017 until present, as outlined above, clearly contravenes international standards.

The Office of the Inspector of Custodial Services in its report, *Behaviour management practices at Banksia Hill Detention Centre*, found that "isolation is overused as a behavior management strategy". It stated that the use of isolation conflicts with any concept of trauma-informed care, and is likely to promote further behaviour problems. Amnesty International is concerned about the prolonged and continued separation of ██████ from the other children at Banksia Hill.

We call for the Government to immediately move ██████ out of the Harding Unit and no longer subject him to isolation practices in breach of international law; and to launch an independent public investigation into these allegations and the operation and practices of the Harding Unit. Any staff members suspected of involvement in these acts breaching the rights of children in detention must be immediately be suspended from duty until the independent investigation is complete. The results of the investigation must be made public and the Government is obligated to provide a remedy to ██████ if his human rights have been breached. Further, where sufficient, admissible evidence is sound, staff members suspected of responsibility for such acts should be brought to justice in fair proceedings.

We also request written confirmation that *Young Offenders Regulations 1995 (WA)* have been adhered to ██████ case, particularly Part 9: Confinement of detainees, including s79(1) that states the superintendent must make and maintain a record of an order to confine a detainee.

I would be happy to meet with you or relevant staff to discuss ██████ case in more detail. I thank you in advance for considering this urgent and important matter.

Yours sincerely,



Tammy Solonec
Indigenous Rights Manager