

Professor Michael Levy AM
7 Rankin St
Campbell ACT 2612

29th May 2016

Ms. Megan Mitchell
National Childrens' Commissioner
Australian Human Rights Commission

Email: communications@humanrights.gov.au

Dear Ms Mitchell

I am a Public Health Physician with over 20 years experience in prisoner health, including youth detainee health.

I have been fortunate to have participated in two missions of the European Committee for the Prevention of Torture (to Hungary and the United Kingdom), and on three assignments with the Western Australian Office of the Inspector of Custodial Services.

In 2004 I wrote a submission to the Joint Standing Committee on Treaties, supporting the ratification by Australia of the Optional Protocol to the Convention Against Torture (OPCAT). Since then I have worked with the Australian Medical Association (AMA) in their advocacy for the ratification of OPCAT. Regrettably, this has stalled as the AMA seems to have other priorities at present.

I am the primary author of:

Michael H Levy, Corinne Dobson, Helen Watchirs and Emily Howie. Ethical challenges for doctors working in immigration detention
Med J Aust 2015; 202 (1): 16.

<https://www.mja.com.au/journal/2015/202/1/ethical-challenges-doctors-working-immigration-detention-0>

and a secondary author of:

Anthea S Krieg, Jillian A Guthrie, Michael Herbert Levy and Leonie Segal.
"Good kid, mad system": the role for health in reforming justice for vulnerable communities. Med J Aust 2016; 204 (5): 177-179.

<https://www.mja.com.au/journal/2016/204/5/good-kid-mad-system-role-health-reforming-justice-vulnerable-communities>

I strongly support the ratification of OPCAT, for the following reasons:

1. Queensland still incarcerates 17 year old youth in adult detention centres, despite this being in contravention of a national standard.

2. The disproportionate incarceration of Aboriginal and Torres Strait Islander youth needs a supra-jurisdictional approach, given the longstanding inability of states and territories to redress this situation.
3. The only competent independent oversight of juvenile justice is in Western Australia.¹
4. I am uncertain (and this in itself is a concern, for I should know) what oversight is applied consistently across Australia, of the treatment of young people in police custody. I suspect that there is inconsistency across jurisdictions in the use of bail-hostels for young arrestees.²
5. A National Prevention Mechanism is essential for improving accountability in the treatment of young people in custody. As noted in the submission of the Public Interest Advocacy Centre (PIAC) (accessed 28 May 2016) current avenues of redress “are reactive in nature and individual-focused, rather than on identifying systemic problems and recommending steps to prevent unlawful conduct.’ My experience (listed above) would also give me cause to believe that the current arrangements are easily manipulated – if for no other reason than the power relationship between individuals ensnared by the police – criminal justice system, and the systems themselves are so extremely unequal.
6. Ultimately, and once again deferring to the PIAC submission, “ratification of OPCAT provides an opportunity for human rights to be better considered in the detention of young people, in a form that also assesses compliance.”

Yours sincerely

Professor Michael Levy AM, MB BS (UNSW), MPH (USyd), FAFPHM

¹ Occasional audits, for example by the ACT Children’s Commissioner, and possibly comparable bodies in other jurisdictions, are inadequate.

² For example: It was the practice in the ACT to transport youth arrestees to the Bimberi Youth Justice Centre soon after arrest. While this reduced the time that the young arrestee spent in the horrid ACT Police Cells, it did fast-track the creation of a Youth Justice file, even before appearing before the Children’s Magistrate.