

## NT Bar Association Media Release

Images speak louder than words. Twenty-five years on from the Royal Commission into *Aboriginal Deaths in Custody*, and one year after the Report on the tear-gassing of juvenile detainees by the NT Childrens' Commissioner<sup>1</sup>, 4 Corners' "Australia's Shame", has prompted a Royal Commission into the treatment of children in detention in the NT.

The footage, which has shocked the nation, depicts the systemic abuse of youth detainees at Don Dale Youth Detention Centre. The abuse is contrary to international customary human rights norms, including the *Convention Against Torture* and the *Convention on the Rights of the Child*.

The Northern Territory Bar Association (NTBA) welcomes the Prime Minister's call for a Royal Commission into the treatment of children in detention centres in the NT. The NTBA calls for the terms of reference to be broad to ensure a thorough and independent enquiry into the treatment of young people in the NT who are detained, at risk of detention, or fall within the care of the NT Government.

The prolonged use of solitary confinement, excessive use of force, and the stripping of children against their will is abhorrent. The NTBA is ashamed that our jurisdiction has permitted these acts to occur as they amount to the torture of children. We are ashamed that the government has, for years, allowed children to be held in inhumane conditions of detention, including confinement in dark cells without natural light, running water or fans in conditions of extreme heat and humidity. These are not isolated events, but depict serious systemic failure against the most disadvantaged and vulnerable children who the government has been tasked to manage and protect.

The NT Government must be accountable for these wrongs, and its actions will need to be examined by the Royal Commission. It would therefore be completely inappropriate for the NT Government to have any role in the drafting of terms of reference, selection of the Commissioner or any other substantial involvement.

Two Children's Commissioners, Dr Howard Bath and Ms Colleen Gwynne, provided reports to Mr Elferink as the Minister responsible for Correctional Services, Justice, Children and Families, and for upholding of the rule of law in his role as the Attorney-General. Mr Elferink's ongoing failure to safe-guard the health, safety and fundamental human rights of vulnerable children, is extremely concerning. Indeed the Minister told 4 Corners that solitary confinement of children was an "operational matter", suggesting it is still in use. It is extraordinary that Mr Elferink claimed he viewed the video only recently as we know the two Children's Commissioners referred to this video footage from at least 2012.

Although Mr Elferink has been sacked as Corrections Minister, the scale of the abuse extends to the Departments of Justice, Attorney-General, and Children and Families, which remains of great concern.

The enacting of NT legislation permitting inhumane treatment such as the use of mechanical restraints, and proposed legislation such as the *Bail Amendment Bill 2016* – creating a presumption against bail with the result that more juveniles are to be incarcerated – curtails fundamental criminal procedural rights and contravene core principles of the NT's Youth Justice Act. Unfortunately, these deviations from international human rights standards have become all too common in the NT.

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<sup>1</sup> Office of the Children's Commissioner NT, "Own Initiative Investigation Report: Services Provided by the Department of Correctional Services at the Don Dale Youth Detention Centre", August 2015.

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The NTBA also calls upon the Australian Government to ratify the UN Optional Protocol to the Convention against Torture (OPCAT), and to incorporate its provisions into domestic law, to provide additional safeguards against human rights abuses in detention centres.

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