

2019/20

Monitoring Places of Detention

Annual report of activities under the
Optional Protocol to the Convention
Against Torture (OPCAT)

1 July 2019 to 30 June 2020

Foreword

3

Human Rights Commission
Te Kāhui Tika Tangata

5

Independent Police
Conduct Authority
Mana Whanonga
Pirimana Motuhake

9

Office of the Children's
Commissioner
Manaakitia ā Tātou
Tamariki

12

Inspector of Service
Penal Establishments

20

Chief Ombudsman

25

Appendix One:
OPCAT background

31

Appendix Two:
OPCAT background

34

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Foreword

In early 2020, the New Zealand government moved swiftly to put in place extensive measures to reduce the spread of COVID-19 and to support New Zealanders through an extraordinary global pandemic. While many have commended the New Zealand government's pandemic response, impacts on New Zealanders have nonetheless been wide-ranging, serious and will be on-going.

Globally, COVID-19 exposed and exacerbated pre-existing disparities and marginalisation. Behind closed doors, far from public scrutiny, people deprived of their liberty face risks of ill-treatment and even torture. These risks are heightened during a public health emergency like COVID-19.

Throughout the world, people in places of detention faced increased risk of infection due to living in close proximity to one another and because of their limited autonomy to take precautionary measures. The impact of government responses throughout the world saw an increase in people being locked in cells for long periods, a decrease in visitors or social contact, and, in many cases, rapid spread of infection throughout detained populations.

National Preventive Mechanisms (NPMs) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹ have a mandate to independently and regularly monitor places where people are deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment ("ill-treatment").

New Zealand NPMs are Ombudsmen, the Office of the Children's Commissioner, the Independent Police Conduct Authority and the Inspector of Service Penal Establishments. The Human Rights Commission is designated as New Zealand's Central National Preventative Mechanism (CNPM) with primarily a co-ordinating role. NPMs are responsible for monitoring places of detention, including

prisons, police cells, care and protection facilities, youth justice facilities, intellectual disability units, acute mental health units, aged care facilities, and managed isolation and quarantine facilities.²

While New Zealand's COVID-19 response allowed the majority of New Zealanders to avoid long restrictions to fundamental rights, the ongoing nature of the pandemic raises new challenges for NPMs around ongoing access to places of detention and the creation of new places of detention in the form of managed isolation and quarantine facilities.

Fortunately, for the most part, NPMs were able to adapt quickly to the evolving circumstances caused by the pandemic and the government's response to it. With a few exceptions, they were able to continue monitoring, sometimes in alternative ways, and adjusted their monitoring criteria to target the exceptional circumstances.

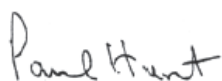
This report outlines the activities of the NPMs during the reporting period 1 July 2019 – 30 June 2020, including measures taken in response to the COVID-19 pandemic. Some extraordinary measures taken during the reporting period include:

- The Independent Police Conduct Authority conducted two remotely monitored inspections of facilities in Invercargill and Auckland City using "FaceTime". The custody supervisor provided a walkthrough of the facility and a discussion on the systems and processes Police were adopting for managing detainees in a safe way during the COVID-19 pandemic Level 4 lockdown. There was a focus on health and safety practices, staffing, segregation of detainees, the receiving and evaluation of detainees, availability and use of personal protective equipment (PPE), the cleaning programme, and rights and entitlements of detainees.
- The Office of the Children's Commissioner conducted eight 'virtual' visits to places of

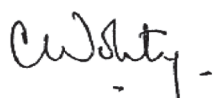
detention. These visits were solely focussed on children and young people's experiences of lockdown in secure facilities and how facilities responded to COVID-19 during Alert Level 4. During Alert Level 4 the numbers of young people entering secure youth justice residential detention reduced and in June 2020, when New Zealand returned to Alert Level 1, only around 50-60% of beds in youth justice facilities were in use.

- The Chief Ombudsman carried out COVID-19 focused physical inspections of prisons, health and disability places of detention, and aged care facilities during all Alert levels. COVID-19 inspections were short and targeted, using specific COVID-19 relevant assessment criteria. The physical, on-site inspections were supplemented by zoom meetings and electronic surveys. The Chief Ombudsman also commenced building a new work programme for inspecting managed isolation and quarantine facilities. Inspections of managed isolation and quarantine facilities commenced in the 2020/21 reporting year.

The Inspector of Service Penal Establishments noted the proactive measures taken by the New Zealand Defence Force to establish an Isolation Wing and acquire physical training equipment for use by detainees while the camp gym was closed. External specialist support was provided by Zoom



Dr Paul Hunt
Chief Commissioner
Human Rights Commission



Judge Colin Doherty
Chairperson
Independent Police Conduct Authority

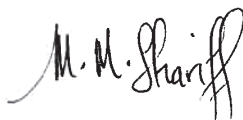
and detainees were allocated daily access to Zoom to contact their whānau and friends during the COVID-19 Alert Levels.

The COVID-19 pandemic has also brought about opportunities for NPMs to advocate for changes to detention systems which seemed too difficult prior to the pandemic. For example, throughout the Alert Level 4 lockdown, care and protection facilities, youth justice facilities and acute mental health facilities all saw significant decreases in their detention populations. Detention agencies also took into account the various vulnerabilities of their populations and took steps to segregate them from the general population in order to protect them from COVID-19, should the pandemic make its way into the detention facility.

The global nature of this pandemic also allowed the NPMs to share and exchange guidance and developing practice with monitoring bodies throughout the world. We were fortunate to attend, participate in and host webinars by the Association for the Prevention of Torture, the Australian OPCAT Network, the Ombudsman's Office and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on ways to adapt to the COVID-19 pandemic. Like many others, the NPMs benefitted greatly from the expertise and knowledge shared at these webinars.



Judge Andrew Becroft
Children's Commissioner
Office of the Children's Commissioner



Alec Shariff
Inspector of Service Penal Establishments
Office of the Judge Advocate General



Peter Boshier
Chief Ombudsman
Office of the Ombudsman

Human Rights Commission Te Kāhui Tika Tangata

Introduction

The Human Rights Commission (the Commission) is the designated Central National Preventive Mechanism (CNPM) under OPCAT and, domestically, the Crimes of Torture Act 1989. The CNPM role entails coordinating NPMs to identify systemic issues arising in places where people are deprived of their liberty. The Commission also liaises with government and the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) to strengthen protections against torture and ill-treatment.

The fundamental premise of OPCAT is to prevent violations of the rights of people who are detained by the State. While NPMs have statutory powers to independently monitor places of detention, with or without notice, the Commission's role is more focussed on coordinating the activities of the NPMs including:

- facilitating annual meetings of the NPMs;
- meeting with international bodies;
- making joint submissions to international treaty bodies; and
- providing communications and reporting/advocacy opportunities.

The Commission also provides support to the NPMs through expert human rights advice, maintaining effective liaison with the SPT, coordinating submissions to the SPT and Parliament, and facilitating engagements with international human rights bodies.

Activities during reporting period

The COVID-19 pandemic had a significant impact on the Commission's activities during the reporting period.

Prior to the pandemic's arrival in New Zealand, the Commission carried out our usual co-ordination functions including hosting meetings of the NPMs, drafting submissions, and liaising with international bodies like the SPT.

The Chief Commissioner, alongside the Chief Ombudsman, appeared before the Justice Select Committee to speak to the 2018/2019 Annual Report on OPCAT Activities. This was the first time the New Zealand NPM has appeared before this Parliamentary Committee to discuss monitoring under OPCAT and presenting our annual report. While this particular appearance predominantly focussed on prisons, we look forward to engaging with the Committee again in the future with all the OPCAT monitoring bodies.

Seclusion and restraint follow-up review

In early 2020, we had the opportunity to engage Dr Sharon Shalev to carry out a vital follow-up report to assess the progress detention agencies have made in implementing the recommendations outlined in her 2017 report *Thinking Outside the Box? A review of seclusion and restraint practices in New Zealand*.³ The follow-up report⁴ covers the period from 2017 to 2020, immediately preceding the COVID-19 pandemic.

Due to the global outbreak of COVID-19 and the subsequent lockdown measures taken by the New Zealand government, Dr Shalev and the Commission were unable to conduct site visits as we had done in the initial review. Instead, we shifted our review to look predominantly at records, policies and practices within places of detention to identify what if any changes were substantively impacting the experiences of people in places of detention. We were fortunate to receive helpful engagement throughout from the Department of Corrections, Oranga Tamariki, and the Waitematā and Capital and Coast District Health Boards. Unfortunately, the review did not benefit from engagement from the New Zealand Police so review of Police cells was not included in the final report.

Though the report was published after the 2019-20 reporting year, the data, policies and practices it reviewed were taken from this period. Dr Shalev's findings indicate that while there have been some positive developments, overall seclusion and restraint continue to be embedded in detention agency practices. Recommendations by Dr Shalev included:

- reducing the use and length of seclusion and restraint generally,

- finding alternatives to seclusion for children and young people,
- exploring potential racial and gender bias in the use of seclusion and segregation,
- improving material conditions of seclusion areas,
- providing more therapeutic environments for distressed individuals including more meaningful human contact and activities in seclusion areas.

Dr Shalev identified that meaningful change will require a paradigm shift in the seclusion and restraint practices in places of detention in New Zealand.

Impact of the COVID-19 pandemic

Throughout Alert Levels 3 and 4, the Human Rights Commission co-ordinated weekly online meetings with OPCAT inspectors and advisers to provide human rights support and guidance during this extraordinary period.

Following lockdown announcements by the New Zealand government, most detention agencies closed their facilities to the public and made efforts to limit movements in and out of places of detention. Early on in Alert Level 4, the Department of Corrections appeared to prohibit NPM bodies from entering prisons for any purpose. In response, the Commission wrote to the Chairperson of the Epidemic Response Committee⁵ and the Chief Executive of the Department of Corrections to reinforce the government's international and domestic responsibilities under OPCAT. The Department of Corrections later clarified their previous position and agreed OPCAT monitoring should continue during the Alert Levels.

The Commission also supported the NPMs to interpret and apply international guidance on monitoring during a pandemic which had at the forefront the "Do No Harm" principle. The Commission supported NPMs implementing alternative ways of monitoring and COVID-19 specific monitoring. As is described in the sections by the NPMs, detention agencies implemented various measures to prevent spread of COVID-19 within places of detention including:

limiting movements in and out of places of detention; minimising detention numbers; implementing quarantine or isolation protocols; and, in some instances, introducing video calls to whānau and support services.

One advantage of the global pandemic was the ability to connect with our colleagues throughout the world through online forums and webinars, share our experiences and lessons learnt, and prepare for the next stages in the pandemic. We were also fortunate to be able to connect with the SPT Regional Office, share our experiences, and receive feedback and support. These opportunities were extremely valuable to the Commission and something we hope to continue into the future.

Te Tiriti o Waitangi and OPCAT monitoring

In 2019, the Human Rights Commission reignited our commitment to becoming a Te Tiriti o Waitangi based organisation and established a Pou Ārahi role with specialist ownership of Te Tiriti and indigenous rights as well as Deputy CEO responsibilities. Throughout the COVID-19 pandemic, the Commission, led by our Pou Ārahi Tricia Keelan, our Ahi Kaa team, and the Commissioners, developed a *Te Hā o Te Tiriti* response to the pandemic, initiated Te Tiriti-based partnership arrangements with the National Iwi Chairs Forum and held three days of *Te Hā o Te Tiriti* valuing and visioning wānanga.

The Commission is currently looking into what Te Tiriti based monitoring under OPCAT may look like, particularly in light of high rates of detention amongst tangata whenua. The Commission is committed to understanding our CNPM commitments under Te Tiriti and continuing to support OPCAT monitoring.

Looking ahead

The Commission looks forward to further supporting and assisting NPMs to effectively carry out their monitoring responsibilities under OPCAT. In 2020/2021, the Commission is looking forward to:

- Supporting the NPM as they move into monitoring new and developing places of detention including aged-care facilities, community remand care homes, and managed isolation and quarantine facilities,
- Strengthening relationships and shared identity of the New Zealand NPMs to achieve our mutual goal of proactively preventing torture and ill-treatment in places of detention,
- Developing an understanding of Te Tiriti o Waitangi and strengthening monitoring of places of detention from an Aotearoa New Zealand perspective.

Independent Police Conduct Authority Mana Whanonga Pirimana Motuhake

Introduction

The Independent Police Conduct Authority (the Authority) is the designated National Preventive Mechanism (NPM) in relation to people held in Police cells and otherwise in the custody of the Police.

The Authority is an independent Crown entity established under the Independent Police Conduct Authority Act 1988. It exists to maintain and enhance public trust and confidence in New Zealand Police.

The Authority fulfils its role by considering and, if it deems necessary, investigating complaints of alleged misconduct or neglect of duty by Police, assessing Police compliance with relevant policies, procedures and practices, and making recommendations for change.

The Authority is also notified by the Commissioner of Police of all incidents involving Police where death or serious bodily harm has resulted from Police action. It may investigate those incidents where it is satisfied that it is in the public interest to do so.

In addition, the Authority entered into a Memorandum of Understanding in 2013 with Police under which the Commissioner of Police may notify the Authority of incidents involving offending or serious misconduct by a Police employee, where that matter is of such significance or public interest that it places, or is likely to place, the Police reputation at risk. The Authority acts on these notifications in the same manner as a complaint.

There are two aspects to the Authority's NPM work: firstly, oversight of the nature and quality of Police custodial facilities; and secondly, oversight of the operation and management of both those facilities and other places in which custodial management is the responsibility of the Police.

Police operate approximately 150 custodial management facilities (containing approximately 850 cells) nationwide. The majority of these are cell blocks situated at police stations. In addition, however, Police have responsibility for those detained in District Courts. While Police are not responsible for the physical nature of the Courts' cell facilities, which are the responsibility of the Ministry of Justice, the Authority nevertheless has joint jurisdiction with the

Office of the Ombudsman over those facilities. There are 59 District Court cell facilities.

New Zealand Police to develop a National Police Custodial Review Programme

This year Police propose to establish a National Police Custodial review programme. This programme will develop a strategy for custodial management; design and implement a new operating model; develop and implement a custodial management infrastructure standard; and deliver immediate enhancements to practice throughout New Zealand. The Authority will work with Police in the development of this programme.

Visits and inspections

Special Project

In 2018/19 the Authority completed baseline inspections of 31 police custodial facilities, being those that routinely hold detainees overnight. The focus of 2019/20 has been reporting on each inspection and developing a set of recommendations. Police Districts have developed implementation plans with time frames to act on those recommendations. As part of our 2020/21 visits we will visit selected facilities to monitor progress on implementing the recommendations.

Inspections

During the COVID-19 Alert Level 4 lockdown, the Authority conducted two remotely monitored inspections of facilities in both Invercargill and Auckland City using "FaceTime". The custody supervisor provided a walkthrough of the facility and a discussion on the systems and processes Police were adopting for managing the detainees in a safe way during the COVID-19 pandemic Level 4 lockdown. There was a focus on health and safety practices, staffing, segregation of detainees, the receiving and evaluation of detainees, availability and use of PPE, the cleaning programme, and rights and

entitlements of detainees. The Authority found that Police had appropriately adapted their systems and processes to take account of COVID-19 issues.

Routine audits

The Authority and Police have developed a set of National Standards for the management of detainees in Police custodial facilities. A programme of audits of individual districts on a rolling basis to monitor compliance with these standards has subsequently been established. This year, five audits were conducted of Central, Northland, Wellington, Tasman and Waikato Districts.

Results were provided to Police National Headquarters and the appropriate District, and discussions were then held about the required response to any recommendations made. The recurring issues identified were:

- There was often poor record keeping.
- Staff did not always select the appropriate option when doing a risk evaluation, thus potentially leading to inadequate monitoring.
- Staff were not assessing the detainees' risk appropriately where an evaluation could not be completed due to a detainee's inability or unwillingness to answer the evaluation questions.
- The checks done on the Police computer system (NIA) for information relating to detainees received into Police custody were frequently inadequate.
- NIA occurrence records were not being linked to the associated custody records.

The IPCA continues to monitor the actions taken to implement recommendations made following these audits and undertakes follow-up visits where appropriate.

Court cells

Given the overlapping responsibility for the oversight of Court cells, the Authority and Office of the Ombudsman agreed to conduct a joint programme of inspections of District Court cells. Just prior to the COVID-19 pandemic response, the Authority conducted an inspection of the Porirua District Court

cells to develop an appropriate methodology for joint inspection and oversight, but the subsequent joint inspections were postponed because of the pandemic and will be undertaken in the next reporting period.

Complaints and incidents

Of the 3882 complaints and referrals the Authority received during the reporting year, 115 (3%) were identified as including OPCAT-related issues. Where complaints or referrals are identified as having an OPCAT-related issue, the Authority categorises them as either those that are the most serious and require independent investigation, or those that are suitable for other action, including referral back to Police for investigation under the Authority's oversight.

The main issues identified in the 115 cases were:

- use of force in the management of detainees;
- lack of appropriate detainee welfare assessments;
- frequency of monitoring; and
- inadequate or inappropriate searches.

Police action to address these issues included:

- expectation-setting conversations with custody staff;
- further training; and
- review of equipment.

Not all investigations have been completed and further issues may yet be identified.

Office of the Children's Commissioner Manaakitia ā Tātou Tamariki

Context

The Children's Commissioner is a National Preventive Mechanism (NPM) under the Crimes of Torture Act (1989)⁶. We visit places where children and young people are deprived of their liberty, to examine the conditions and treatment of children and young people, identify any improvements required or problems needing to be addressed, and make recommendations aimed at strengthening protections, improving treatment and conditions, and preventing ill treatment.

We monitor all secure Oranga Tamariki facilities throughout Aotearoa New Zealand

This includes:

- Four **youth justice** facilities for:
 - young people charged with an offence and on remand
 - young people who have been sentenced to a Supervision with Residence order by the youth court
 - young people who have committed serious criminal offences, been sentenced to imprisonment in the adult courts and placed in a youth justice facility by agreement with the Department of Corrections.
- Four **care & protection** facilities (including the secure hub of the Community Residential Service – Kahui Whetū) for children and young people who are deemed to be at risk of harm to themselves or others and/or have high and complex needs.
- One **special purpose** facility. Oranga Tamariki contracts Barnardos, a non-government organisation, to provide secure care and specialist therapeutic treatment for a small number of children and young people with at risk sexual behaviours and complex needs.

We assist the Ombudsman to monitor Mothers with Babies Units (MBUs) in women's prisons

We undertake this monitoring by working with the Chief Ombudsman, who hold the OPCAT designation

for the Women's prisons. Our focus is the babies and their mothers.

- Three **Mothers with Babies Units** managed by the Department of Corrections and based in women's prisons. We conduct joint monitoring visits with the Office of the Ombudsman. The focus of our monitoring is on the safety and wellbeing of the babies, under two-year olds who live in units with their mothers. We also monitor the level of support provided to mothers in caring for their babies.

New designations for our Office

As of 1 July 2020, the Office of the Children's Commissioner (OCC) is the designated NPM for 5 child and youth mental health, disability and youth forensic units – managed by District Health Boards, and youth justice community remand homes.

How we monitor:

Based on the United Nations Guidelines, the domains that form the basis for our OPCAT assessments are:

- Treatment, Protection system, Material conditions, Activities and contact with others, Medical services and care and Personnel

In addition to these domains, the OCC has added one additional Aotearoa New Zealand-specific domain:

- Improving outcomes for mokopuna Māori (Māori children and young people) and their whānau (immediate and extended family).

For mokopuna Māori, being supported to have a positive connection to identity is critical to wellbeing. We assess how facility staff respond, to meet the needs of Māori, throughout our assessment of all domains. Our seventh domain focusses specifically on how secure environments are improving outcomes for mokopuna Māori. To do this we assess four sub domains: Vision and goals for mokopuna Māori, building cultural capability, Values upholding Māori culture and Partnerships with Māori.

We advocate strongly for services and policies that reduce inequalities and improve outcomes for mokopuna Māori. As long as mokopuna Māori continue to be placed in secure facilities, Oranga Tamariki are legislated to reduce disparities, have

regard for mana tamaiti⁷ (tamariki), whakapapa⁸ and the whanaungatanga⁹ (sense of family connection, kinship) responsibilities of their whānau, hapū¹⁰ (kinship group) and iwi¹¹ (extended kinship group). This is part of their obligations to recognise and provide a practical commitment to the principles of the Treaty of Waitangi, Te Tiriti o Waitangi.¹²

See our website¹³ for more information on the way we monitor.

Monitoring 2019-2020

OCC conducted seven onsite NPM visits to places of detention between July 2019 and March 2020. One of these visits was unannounced, while the other six were announced. We had scheduled four further onsite visits to occur between March and May 2020, two unannounced and two announced. However, these four visits needed to be cancelled when the New Zealand government enforced COVID-19 pandemic related restrictions, commonly described as a 'Level Four lockdown', between late March and mid-May 2020. The lockdown placed significant restrictions on travel, work and services with everyone confined to their home, for the majority of the time.

Children and young people detained in a care and protection or youth justice secure residential facility during lockdown were restricted, either to the facility as a whole, or to their unit within the facility. These circumstances, bring even greater seclusion from families and communities than usual, made it imperative that we continued to monitor the safety and wellbeing of these children and young people during this extraordinary time. During the month of April, we made it our priority to conduct eight visits 'virtually' by either video or phone call. These visits were solely focussed on children and young people's experience of the lock-down in secure facilities, inquiring into how the facilities responded to the COVID-19 Level Four environment.

During COVID-19 lockdown the numbers of Young People entering secure youth justice residential detention reduced

During the COVID-19 restrictions, police emphasised alternative actions to avoid arrest detention of young people in secure facilities where they would be potentially at greater risk of infection. The Remand Option Investigation Tool (ROIT) was also used more during this time. The ROIT is intended to inform placement decisions while young people are on remand and its use has led to fewer secure detentions. This reduction in secure detentions has been maintained post COVID-19 lock down. In many youth justice facilities, only around 50-60% of the beds were in use in mid-June 2020, when New Zealand returned to COVID-19 Alert Level 1, the lowest alert level.

Findings¹⁴ from onsite monitoring of Oranga Tamariki facilities

The six Oranga Tamariki facilities we visited from July 2019 to November 2019, met the majority of our standards. It is important to note that these standards are minimum requirements. They do not fully reflect our aspirations for promoting children's rights or enhancing their wellbeing.

Across our monitoring findings, the following key themes were evident. For each theme we provide a description of our findings across the facilities we visited. Quotes from children and young people we interviewed are italicised.

1 Overall progress in the shift towards community alternatives from secure facilities is variable

Care and protection

In regard to care and protection secure residential facilities, Oranga Tamariki intends to progress a phased closure of these residences. However, we are concerned about how long this is taking. Many of the children and young people who are placed in care and protection residences have complex learning, behavioural, attachment and/or mental health needs that require ongoing and highly specialised support in small family-like homes. We are concerned about the impacts on these children and young people from continuing

Visits conducted 1 July 2019 – 30 June 2020

Full onsite OPCAT visits to Oranga Tamariki and Barnardos secure residential facilities

Epuni Care and Protection	Unannounced	July 2019
Te Poutama Ārahi Rangatahi Special Purpose Care and Protection	Announced	September 2019
Te Oranga Care and Protection	Announced	September 2019
Te Maioha o Parekarangi Youth Justice	Announced	October 2019
Puketai Care and Protection	Announced	November 2019
Te Au Rere a te Tonga Youth Justice	Announced	November 2019

COVID-19 focussed virtual visits to secure residential facilities

Epuni Care and Protection	Announced	3 April 2020
Te Puna Wai o Tuhinapo Youth Justice	Announced	6 April 2020
Te Poutama Ārahi Rangatahi	Announced	15 April 2020
Te Maioha o Parekarangi Youth Justice	Announced	16 April 2020
Te Oranga Care and Protection	Announced	20 April 2020
Puketai Care and Protection	Announced	22 April 2020
Korowai Manaaki Youth Justice	Announced	23 April 2020
Te Au Rere a te Tonga Youth Justice	Announced	28 April 2020

Department of Corrections – Mothers with Babies Unit onsite monitoring

Mothers with Babies Unit	Announced	2020
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to live in institutional group environments.

While one large institutional residence was closed in the 2018 – 2019 year, no further secure care and protection facilities were closed in the 2019-2020 year. Specialised placements for children and young people with specialised and complex needs take a long time to be created. The average length of stay in a care and protection facility has increased from 48 days in 2018-2019 to 108 days in 2019-2020¹⁵.

A much stronger focus is needed on the development of care and protection community homes and specialised placements to replace the existing secure residential facilities. We will be continuing to work with Oranga Tamariki, to encourage the closure of the institutional residences, help overcome barriers to change and support the development of tailored care solutions matched to the needs of these children and young people.

Youth Justice

Regarding youth justice secure facilities, from 1 July 2019, most 17-year olds are now part of the youth justice system. Despite this change, there has not been an increase in the numbers of young people in youth justice facilities. The development of Oranga Tamariki run youth justice remand homes in the community has continued to progress. This initiative has been developed in the last two years to provide a 'family home' like environment for between three and four young people at a time who are detained on remand under section 238 (1) (d) of the Oranga Tamariki Act 1989. There is currently a total of nine remand services in place, four run and staffed by Oranga Tamariki and five managed by iwi or kaupapa Māori services. In 2019-2020, OCC conducted a thematic review into the effectiveness of the four of these homes currently being operated directly by Oranga Tamariki, using our mandate under section 13 of the Children's Commissioners Act, 2003. From 1 July 2020, all the new remand homes will fall within our new OPCAT designations.

2 More planning is needed for improving outcomes for mokopuna Māori

In the last year some facilities made progress in this, including finding creative ways to support children and young people to connect more with their whakapapa and identity as Māori. For example, one facility supported children and young people by finding out more information about their history and provided children and young people with a written book. Children and young people in some facilities told us they learn about te ao Māori from staff who are strong in their knowledge and understanding of te ao Māori.

"I'm gonna compare [my whakapapa book] to kumara... if you go deeper, there is bigger, sweeter ones. [Staff member] digs out the biggest kumara. It actually makes me feel like I am actually getting to understand my Māori side."

We made recommendations to all the care and protection and youth justice residential facilities, for improving the outcomes for mokopuna Māori. In many cases, we advocated for the facility to develop a written plan with clear, time framed goals and actions to improve outcomes for mokopuna Māori. In some facilities the need was to build wider cultural capability amongst staff. We also recommended that cultural supervision for all staff would provide even better support for staff to implement and embed their learning.

3 Some children and young people are being hurt during restraints

Although in some facilities there was a decrease in the use of restraint and isolation evident in the 2019-2020 year, we are concerned that children and young people continue to tell us that they are being hurt in restraints.

"I find it hard cos sometimes like when they restrain you it kind of brings up like flashbacks of when your parents were hitting you ... and it brings up bad memories and then it sets us off more because they've got their hands on us."

Staff receive regular training in de-escalation and restraint practice – Managing Actual and Potential Aggression (MAPA) programme in care and protection facilities and Safe and Tactical Approach and Response (STAR) programme in youth justice facilities.

4 Children and young people have more opportunities to have a say in their day to day life

Most facilities we visited have improved the formal and informal ways in which children and young people can share their ideas. Some use child or youth led forums which work well.

Involving children and young people in developing their plans in a meaningful way continues to be a challenge. Both care and protection and youth justice facilities have made positive changes throughout the year, intended to make their plans more child and youth friendly.

5 Access to specialist health services is a strength identified in many facilities we monitor

While children and young people are in secure facilities, they have access to much-needed opportunities to receive check-ups such as dental and vision and some mental health support.

"I couldn't eat cos it hit the nerve in my tooth ... then four days later I went to the dentist and got my first repair done so I could eat like normal stuff and like I keep going back and now my teeth is all good."

6 The effect of trauma on children and young people needs to be better understood and more evident in staff practice

As we reported in 2018-2019, we continue to recommend that staff are supported to understand and respond to children and young people with complex needs and a history of trauma.

Positive relationships with children and young people continue to be a strength in many facilities. Children and young people often tell us there are staff they can trust and talk to.

"That they're always there to talk to you and like when you come off your phone call or something, are you okay? And like constantly like ensure that they're there. And there's other staff members that you like click with, so you can just talk to them instantly about anything".

Some facilities have made progress in developing their model of care. The Whakamana Tangata restorative practice approach in one youth justice facility and the Alert programme for learning self-regulation strategies in one care and protection facility are both good examples.

7 Staff need more individual and professional supervision¹⁶ to develop their practice.

While the supervision policy for residential staff remains unchanged, youth justice facilities have implemented a larger leadership team which aims to provide increased opportunities for group supervision and practice support. Care and protection facilities are aiming to provide

training for their team leaders in providing group supervision.

8 The material conditions of both care and protection and youth justice secure residential facilities has declined.

We are particularly concerned with the condition of care and protection facilities and the effect on the wellbeing of children and young people.

"I don't think it's a happy environment...plastic chairs, carpet all hoary, and the couches have got blood stains on them and are yuck as. I feel like they don't clean them."

While children and young people continue to be placed in the existing care and protection facilities, investment is needed to improve conditions. Three out of four youth justice facilities have had their indoor spaces redecorated in the last two years and one is still waiting for this redecoration. While we reported improvements in our last report, these facilities continue to have maintenance issues that need to be addressed, such as air conditioning and the quality of sound for phone calls.

9 Grievances

We found that across the facilities, the process was generally well administered. Each facility has a dedicated grievance coordinator to monitor investigations and timeframes. Additionally, the grievance panels were visiting the facilities frequently. Despite this we heard that the system did not consistently work for children and young people. Three main issues for children and young people were being able to access the grievance system, young people not getting a response in a timeframe that works for them, and not seeing any meaningful change, as a result of making grievances.

Impact of the COVID-19 Pandemic

When New Zealand moved into COVID-19 lockdown, there were particular implications for children and young people living in the Oranga Tamariki secure care and protection and youth justice residences.

From the time the lockdown was announced, we had weekly teleconferences with the Oranga Tamariki

national residential managers with responsibility for the care and protection and youth justice residences and the youth justice community-based remand homes. We received regular updates on the way the residences were rapidly adapting to the COVID-19 context, as well as the impacts of the lock-down for children and young people and staff.

Visits to places of detention are particularly important in situations where civil liberties have been severely restricted because of serious health risks. As an NPM, we had an immediate responsibility to monitor the rights, safety and wellbeing for children and young people in the facilities that fell within our OPCAT mandate. However, our usual on-site visiting approach was not possible because all our staff were confined to their homes. So working from home and making all the arrangements by phone, zoom and audio visual link (AVL), we quickly shifted our monitoring approach from our usual face-to-face interviews into the 'virtual' environment.

Given significant pressures on residential facility staff at this time, our primary focus was on interviewing children and young people and understanding their experience of the lock down environment. In contrast to our usual practice, we did not interview the full range of facility staff and stakeholders due to the narrow focus of our virtual monitoring being on the immediate impact of COVID-19 on children and young people and our wish to prioritise their experiences. We did however, interview the Managers of the facilities and the Health teams.

We were particularly interested in children and young people's:

- understanding of and reaction to pandemic plans
- access to health care and hygiene equipment
- contact with staff, whānau and other people who are important to them
- access to activities and programmes, and
- understanding of plans for any transitions in and out of facility.

As well as talking with children and young people, we also interviewed the facility manager and a member of the health team to understand their systems, practices and planning around COVID-19.

Key findings from COVID-19 monitoring

Across care and protection and youth justice facilities we found many strengths in the response to COVID-19 pandemic and lockdown:

- Most children and young people reported feeling safe and that they had staff they could talk to
- Most children and young people knew about COVID-19 and understood what lockdown meant
- Children and young people were enjoying access to video calls. At many facilities, this was a new initiative for connecting with whānau
- Facility managers felt well supported by Oranga Tamariki national office, and health providers
- Staffing levels were good despite staff managing extra pressures in their personal and professional lives
- Independent advocates from Voice of Young and Care Experienced (VOYCE) Whakarongo Mai¹⁷ were available daily in each facility by phone

We identified some areas for development across facilities:

- While most children and young people weren't concerned about getting sick themselves, many were worried about the impact of COVID-19 on their whānau. Some children and young people were concerned about the availability of face-to-face visits. In addition, video calling between children and young people and their whānau, was not available in all facilities
- The lockdown caused limitations on transitions out of facilities which caused concerns for children and young people.
- Some children and young people reported they were bored due to the suspension of off-site activities
- Some youth justice facilities had difficulties finding a space for young people to isolate when needed

Please see our website for more information on the virtual monitoring under COVID-19 lockdown¹⁸

Department of Corrections

Monitoring of Mothers with Babies Units

We visited one Mothers with Babies Unit in the 2019-2020 year, an announced visit in March 2020. Overall, at the Mothers with Babies Unit (MBU) we visited, babies were safe and living in an environment supported by their mothers. The prison has made progress in some areas and has a vision and plans to improve the care they provide.

There have been significant changes at the Department of Corrections in recent times, with the release of their new strategy, Hōkai Rangi as well as the creation of Te Ara Mana Wāhine, a pathway specifically designed for wāhine Māori (Māori women) in prison.

Improvement has been made in support for mokopuna Māori. The introduction of a role to support cultural capability of prison staff has had immediate benefits including the development of relationships with mana whenua¹⁹ and Māori organisations. However, mothers and babies need more opportunities to access kaupapa Māori (Māori approach, Māori topic)²⁰ parenting support and staff need better support to build their cultural capability.

Admission to the MBU is considered on a case by case basis. The prison uses a panel of Department of Corrections staff. They are continuing to develop the panel process, for example including other stakeholders, however, the MBU admission process needs to be consistent, clear and timely. It also needs to include the voice of mothers. There have been positive changes made by the Department of Corrections to enable mothers to apply for reconsideration of decisions about admission to MBU and removal of their babies.

Handcuffing of mothers in the late stages of pregnancy needs to be addressed. The Department of Corrections is conducting a review of policies regarding the restraint of pregnant women, women who are in labour and women receiving post-natal care. We heard about practices in relation to handcuffing a woman while in the late stages of pregnancy. While staff are following current policy, we expect to see changes that ensure the policies on the use of handcuffs are clear, humane and prioritise the wellbeing of babies.

Inspector of Service Penal Establishments

Introduction

The Inspector of Service Penal Establishments (ISPE) is the National Preventative Mechanism (NPM) charged with monitoring New Zealand Defence Force (NZDF) detention facilities. The Registrar of the Court Martial is appointed as the ISPE as set out in Section 80 (1) of the Court Martial Act 2007 in respect of Service penal establishments (within the meaning of Section 2(1) of the Armed Forces Discipline Act 1971).

The Role of Detention

Detention is still an effective punishment method for promoting and maintaining discipline within the New Zealand Defence Force (NZDF). It is second only to imprisonment and dismissal from Her Majesty's Forces as the top end of available punishments within the military justice system. So it remains important that places of detention in the NZDF are independently monitored to ensure that they comply with the principles of Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Another very important aspect to detention within the NZDF context is that the majority of Service detainees will go back into the Services after serving their period of detention and so the focus of the detention is on corrective training.

Inspections

OPCAT success is based on the premise that regular independent visits prevent torture and other cruel, inhuman or degrading treatment of detainees. So regular OPCAT inspections remain relevant despite the absence of any ill treatment of detainees in the Armed Forces to date. In the year ending June 2020, four of the eight permitted **no notice** inspections were conducted by the ISPE. The inspection included a physical review of the facilities, a discussion with the Officer-In- Charge (OIC) of the facilities, reviewing documentation and a private interview with those undergoing punishment. Feedback is provided routinely after the inspection to the OICs. There was nothing untoward to report from any of the inspections.

Detention Facilities

The NZDF has one dedicated facility that caters for the military punishment of detention. The facility is called the Services Corrective Establishment (SCE) and is based at Burnham Military Camp, Christchurch. Members of the NZDF can also be confined in Ship, Camp and Base facilities when close arrest is ordered. However, these periods of confinement are rarely ordered and confinement exceeding 12 hours is highly unusual.

The NZDF also has holding cell facilities on its Bases and Camps of which the facilities at RNZAF Base OHAKEA and RNZAF Base AUCKLAND are the only ones considered as being fit for purpose. The current status of the cells elsewhere are as follows:

- HMNZS PHILOMEL the cells remain closed and if required the cells at RNZAF Base AUCKLAND can be utilised until a new purpose built facility delivered for the Devonport Naval Base;
- The cell block in Linton Military Camp remains closed with temporary periods of confinement as required being met by the cells at RNZAF Base OHAKEA until a new facility in Linton is constructed.

Services Corrective Establishment

As mentioned above SCE is the only purpose built detention facility within the NZDF. It has 10 unisex cells. Recognising that most of the detainees are destined to return back to the Services, SCE has a twofold purpose, which is to provide:

- corrective Service training for detainees so that those who are to be retained in the Service may return to their units as better members of the Armed Forces; and
- a custodial punishment, which will act as a deterrent to future offending by the detainee and other members of the Armed Forces.

Committal Statistics

Over the reporting period, 39 Service personnel were committed to SCE for sentences of detention, compared to 23 detainees the previous year. A total of 1356 days of detention were recorded, compared to 734 days during the last reporting period. Committal rates during this reporting period were the highest recorded. Detainees with long sentences to SCE instead of imprisonment were also on the increase. This is most likely because SCE has a very effective personal developmental and rehabilitation/reintegration programme.

Corrective Training

The principal aims of corrective training are to restore detainees' self-confidence, self-respect, and motivate them to a level where they can adjust to the structure and discipline of a Service environment. As well, for those detainees who are to be dismissed from the Service, to develop personal qualities which will enhance their successful integration into civilian society.

The current form of corrective training has a personal development focus centred on the maintenance of discipline, through physical training (PT), military drill, work details, complex tasks and equipment husbandry. The work details provide an opportunity for detainees to contribute positively to the local community. Development programmes, which are designed for each detainee, focus on the areas that provide the greatest amount of personal development with specialist outside support utilised in the areas of education in substance misuse and where appropriate career transition.

SCE now also has robust processes in place to assist individuals dealing with mental health concerns. Staff have received professional development in this area through the Mental Health Education and Resource Centre. SCE is well placed to utilise the full suite of internal and external support network as part of its rehabilitation/reintegration programme.

Detainee Feedback

Detainees report feeling a greater sense of self-worth and confidence at the completion of their sentence and feel motivated to become productive members of either the Service or back into the community. Some individuals state that the safe environment at SCE allowed them to concentrate on themselves and become open to receiving appropriate counselling and/or treatment.

Productive Projects

SCE Staff continue to train detainees in basic skills in the operation, maintenance and safe use of various power tool. This training then allows the detainees to be regularly employed as manual labour for projects such as:

- The eradication of seedlings pines, scrub clearance and the management of a newly developed native nursery as part of the Burnham Camp beautification scheme.
- Maintaining the Burnham Camp Urban Training Facility Range on the 189 acre paddock in a clean and tidy condition.
- The redesign of Burnham Camps Grants Grove reflective garden. This project provides an opportunity to educate detainees in planning processes, liaison with outside agencies, managing resources, problem solving and formal progress briefings, which exposes them to public speaking; and
- Restoration of military headstones as part of the Army restoration project. Detainees report a significant feeling of satisfaction pride in carrying out this work and take great pride in the finished result.

COVID-19

SCE implemented lock down process two weeks before the NZ Government commenced the alert levels. An Isolation Wing was quickly established and appropriate protocols were implemented. During Level 4 lockdown, SCE continued to operate effectively by utilising the assets available to it. Recently acquired PT equipment was used to conduct PT periods as the Gym was closed. Detainees were tasked with developing their own programmes, under supervision from SCE resident PT Instructor. One unintended but positive outcome has resulted in the detainees having a heightened interest in PT and healthy lifestyle choices.

External specialist support including padre, physio sessions and visiting officer interviews were conducted via ZOOM. As well daily access to ZOOM were provided to contact whanau and friends to allay any anxiety about the safety of loved ones. During the entire period of the progressive lock down process, the detainees did not experience any degradation in their rehabilitation programme.

The successes of the Isolation Wing and the use of Zoom as a communication platform for families have led to their permanent inclusion into the SCE operating procedures.

Discipline

During this reporting period, there were no breaches of discipline. Some detainees initially struggled to meet the standards required at SCE and some are still impacted from long term drug use. SCE has the required capability to work with these individuals and keep them safe as they clear the effects of drugs and /or alcohol abuse.

Sourcing the services of the Career Transition Coaches have produced a significant positive impact. The Coaches have assisted individuals leaving the NZDF with preparatory job seeking skills. They have also worked with personnel remaining in the Service by mapping out five year career plans.

State of Buildings/New Works/Improvements

SCE remains in its current location and continues to be assessed as being in a good state of repair. With the recently completed building extension, SCE is now deemed fit for purpose and is more able to effectively run the required development programmes in a professional manner. The ongoing development of the external areas within the SCE area ensures that it is now self-contained, which proved to be vital during the COVID-19 Level 4 lockdown. The building provides staff with good dedicated workspace. Equally, organising the physical environment down into zones has allowed the detainees to quickly orientate themselves into the SCE operating model.

Te Tiriti o Waitangi

SCE is now aware of its obligations in this area and has begun scoping work in ensuring that its operating model reflects the requirements as applicable to the NZDF. The intention is to work closely with the counterparts in the Department of Corrections in the first instance and adapt relevant ideas to the SCE context.

Conclusion

The continued focus at the SCE is on personal development for those individuals that are to remain in the Defence Force. The development is founded on corrective training, which is fundamental, immediate and mandatory. Furthermore, the training centres on, but is not confined to, the maintenance of discipline through physical training, drill on the parade ground, physical work and equipment husbandry.

For those to be released from the NZDF, the focus shifts to that of preparing for life in civilian society and positioning for success, in relation to job obtainment and the processes involved in this. Overall SCE is considered very fit for purpose.

Regarding the holding cells only those of RNZAF Bases OHAKEA and AUCKLAND are considered to be compliant. However, the other Camps and Bases are planned for new facilities as part of the NZDF state infrastructure programme.

Overall Assessment

The Inspector remains confident from inspections at SCE and visits to Camps and Bases throughout New Zealand that the culture of the New Zealand Defence Force vigorously supports the promotion of the human rights and humane treatment in its ranks.

Chief Ombudsman

Introduction

The COVID-19 pandemic, which swept the world in 2020, is undoubtedly the defining event of the past year. Transparency, accountability, openness, and fairness are never more important than in a time of crisis. Providing confidence that people are being treated fairly helps to engender the public trust that is so crucial to us working together as a nation to combat COVID-19.

The Government's response to the pandemic required me to quickly change my focus in some areas. It rightly confirmed my oversight role as an essential service, and within three weeks into the Level 4 lockdown, I announced my intention to commence COVID-19 focused inspections of designated places of detention. I moved from orientation visits in privately-run aged care facilities and changed my inspections programme for prisons and mental health facilities to have a focus on the new reality of the pandemic. I also began planning inspections of the managed isolation and quarantine facilities for people arriving from overseas.

In summary, over the 2019/20 period I visited 84 places of detention (prisons and some other places where people are not free to leave at will), including 59 formal inspections. 52 percent of non-COVID-19 specific visits to places of detention were unannounced. All COVID-19 inspections were announced for health and safety reasons. I made 125 recommendations for improvement, 90 of which were accepted.

My COVID-19 inspections of mental health facilities found a good balance is possible between protecting people and preserving human rights. I found that while prisons were taking positive steps to keep coronavirus out and had responded to the pandemic in a balanced and efficient manner, this had, in some instances, come at the expense of some prisoners' rights. I also identified good practices, but some improvements were needed in aged care facilities, particularly in relation to the definition of 'bubble' and complaint handling practices.

Integral also to ongoing development has been my international development and engagement programme. Prior to lockdown, my staff engaged

with colleagues in Vanuatu and Indonesia on OPCAT monitoring. Once the pandemic hit, communications turned virtual. One of the benefits of the pandemic has been the necessity to use technologies in different ways when face-to-face interaction is impossible. This has enabled me to deliver a webinar that had global attendance on how I met my obligations under OPCAT during the COVID-19 pandemic.

Improve the conditions and treatment of people in detention

Ombudsmen are designated as a National Preventive Mechanism under the United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). In carrying out this role, I examine, and make recommendations to improve, the conditions and treatment of detainees, and to prevent torture, and other cruel, inhuman or degrading treatment or punishment, in:

- 18 prisons;
- 118 health and disability places of detention (including approximately 30 managed isolation and quarantine facilities);
- 227 privately run aged care facilities;
- three immigration detention facilities;
- one Public Protection Order (PPO) residence;
- one substance addiction (Compulsory Assessment and Treatment) unit; and
- 58 court facilities.

The designation in respect of court facilities is jointly shared with the Independent Police Conduct Authority.

People in detention during the pandemic

In April 2020, I reviewed my pre-planned programme of inspections and visits in light of COVID-19 and my designation as an essential service for OPCAT inspections. I considered a wide range of information, including that which was provided by the United Nations, and the expectations of my role

by Parliament. It was clear that as well as remote monitoring primarily through information gathering, I must carry out physical on-site inspections in order to provide effective independent oversight and report to Parliament accurately on the conditions and treatment of people detained in these facilities. I also moved at speed to consider my designation to inspect health and disability places of detention, and concluded that it includes managed isolation and quarantine (MIQ) facilities.

As the country moved into Alert Level 4, there was understandably some reluctance to my continuing to inspect places of detention. I advised the relevant authorities that I had a statutory mandate to fulfil under the Crimes of Torture Act 1989 that could not be circumscribed. While I considered a variety of innovative ways to monitor places of detention during 'lockdown', onsite inspections and visits had to continue in order to ensure that conditions and treatment of people were appropriate.

I acknowledged the need for firm action to combat COVID-19 and to keep those in care safe from the virus. However, I firmly believe that independent monitoring is essential during these unprecedented times. Extraordinary measures imposed by the Government must not have an unnecessary or disproportionate impact on people's rights. It is important to note that human rights are inalienable; even during these extraordinary times people can expect to be treated with care and respect. I needed to make sure that the use of extraordinary measures by the Government did not override my statutory role and mandate to report independently to Parliament.

My OPCAT COVID-19 inspections were carried out during all four alert levels, with full regard for health and safety which I shared with the Speaker, Prime Minister, and Director-General of Health. My inspections were short and targeted, using specific COVID-19 relevant assessment criteria that I developed.²¹ I was mindful of the '*do no harm*' principle and of the need to enter facilities and carry out inspections in a way that was safe, effective, and supportive in this rapidly changing environment. My inspections were all announced, and required new health and safety procedures, urgent acquisition of scarce personal protective equipment (PPE), and training on proper use of PPE during a pandemic.

In total, I undertook COVID-19 inspections of nine prisons, six health and disability places of detention, and 12 aged care facilities. Given the unprecedented nature of the time and circumstances, I considered it would be appropriate to produce and publish thematic reports about my observations and recommendations for the three facility types.²² The inspections were intended to give insight into how these sectors were managing as a whole.

I also commenced building a new work programme for inspecting MIQ facilities, including obtaining information from the Ministry of Health, building my inspection methodology, confirming health and safety procedures, undertaking planning and logistics, and updating my reporting and communications material. Inspections of MIQ facilities have commenced in the 2020/21 reporting year.

Visits and inspections

When combining general and COVID-19 focused activities, in 2019/20 I carried out a total of 84 visits to places of detention, including 59 formal inspections. This brings the total number of visits conducted over the 13-year period of the Ombudsman's operation under OPCAT to 573, including 252 formal inspections.

Thirty visits (52 percent of non-COVID-19 specific visits) were unannounced. In total, 24 reports (86 percent of all drafted reports) were provided to the relevant facility within 12 weeks of the last day of the inspection. More information about these inspections, including links to reports published this year, can be found in Appendix Two: OPCAT inspections by the Chief Ombudsman.

Each place of detention contains a wide variety of people, often with complex and competing needs. All have to be managed within a framework that is consistent and fair to all. While I appreciate the complexity of running such facilities and caring for detainees, my role is to monitor whether people are treated appropriately and in a way that avoids the possibility of torture or other cruel, inhuman or degrading treatment, or punishment occurring.

This year, I made 125 recommendations, of which 90 (72 percent) were accepted or partially accepted. A

further breakdown of these recommendations can also be found in Appendix Two: OPCAT inspections by the Chief Ombudsman.

Prisons

I conducted two full inspections, one follow up inspection, and nine COVID-19 focused inspections at prisons in 2019/20. (Full list of inspections in Appendix Two: OPCAT inspections by the Chief Ombudsman.) I reported concerns that were similar to those raised in previous years, including treatment of remand prisoners, time out of cell, material conditions in prisons, treatment of Māori prisoners and engagement with mana whenua,²³ and low levels of confidence in the complaints system.

The proportion of prisoners on remand, and their treatment, continues to be of significant concern. The national remand population is close to 40 percent.²⁴ The most recent projections are that people on remand will make up over 50 percent of the prison population by 2029.²⁵

Many remand prisoners are accommodated in high security units and subject to a basic yard-to-cell regime, meaning that they spend upwards of 20 hours per day in their cell. Inspections continue to find that the time prisoners generally receive out of their cells continues to be limited for many. I have made repeated recommendations about the periods of time-in-cell and lack of activities for remand prisoners in recent years.

Many prison sites have facilities that are no longer fit-for-purpose, but which have continued to be used due to the high prison population. The conditions are concerning enough on their own. However, when combined with long periods of time in cell, the substandard conditions can lead to frustration, boredom, and deteriorating physical, mental, and spiritual wellbeing. I understand that the Department intends to take advantage of the reduction in the prison population to make steps toward addressing these concerns with the facilities.

I have not observed any material improvements in the complaints system, or confidence in it, over the last year. In the last 12 months, I conducted two prisoner surveys which continued to indicate that prisoners do not have faith and confidence in the complaints system. I have recently been advised of changes to this process, including early access to and resolution focus from the Office of the Inspectorate.²⁶ I will be interested to see how these changes affect prisoner confidence.

Inspections continue to observe disproportionate rates of incarceration of Māori. However, provision of kaupapa Māori programmes and practices in prisons remains low. I acknowledge that Ara Poutama Aotearoa²⁷ (Department of Corrections) released its strategy *Hōkai Rangi 2019-2024* in August 2019. *Hōkai Rangi* commits to delivering outcomes to address the significant over-representation of Māori in the corrections system. I look forward to seeing progress on implementing *Hōkai Rangi* in future inspections.

Prisons during COVID-19²⁸

Prisons responded to the COVID-19 pandemic in a well-resourced, balanced, and efficient manner, despite the complex challenges of managing prisoners at this time. I observed generally positive relationships between staff and prisoners, and noted enhanced health and safety processes were in place and effectively communicated. Prisons had taken measures to support prisoners in maintaining contact with the outside world, and provided them with relevant and up-to-date information about COVID-19. Prisoners spoke of feeling supported, safe, and well-informed.

I made some recommendations for improving the conditions and treatment of prisoners in seven prisons. In particular, I found that some prisoners in some units at four prisons were not receiving access to at least one hour of fresh air on a daily basis,²⁹ or being provided with activities to occupy their time.

Intellectual disability facilities

This year, I inspected 16 Regional Intellectual Disability Supported Accommodation Service (RIDSAS) facilities. My reports on these facilities are currently underway.

Mental health facilities

I conducted inspections of 17 mental health inpatient units in 2019/20, including two follow up inspections and five COVID-19 focused inspections. I also published, for the first time, four mental health reports. (Full list of inspections in Appendix Two: OPCAT inspections by the Chief Ombudsman.)

My assessment of mental health facilities in New Zealand continues to be varied. I reported concerns including:

- treatment of individuals with high and complex needs³⁰ and intellectual disabilities;
- unsatisfactory seclusion practices and conditions; and
- unduly restrictive practices.

I identified concerns about the mixing of different categories of service users (tangata whaiora). I found that this practice compromised care and

limited opportunities for recovery. I also found that individuals with high and complex needs and/or an intellectual disability who were clinically ready for discharge were unable to be discharged due to a lack of available supported accommodation in the community. Acute mental health services are not intended to be, nor are they well suited for, long-term accommodation.

I found that many service users were being secluded in unsatisfactory conditions. Progress on eliminating the use of seclusion is slow and inspections have not consistently found a material reduction in the rate of seclusion. Some facilities have taken steps, while others have provided information demonstrating a commitment to eliminating the use of seclusion. However, seclusion remains at concerning levels in many facilities, particularly for Māori.

I also found that many of the regimes in mental health facilities are unduly restrictive, including dependence on staff to provide access to phones, limited access to hot drinks and snacks, and restricted access to activities areas and courtyards. I consider that the response to these risks needs to be tailored to an individual, rather than putting undue restrictions in place for all service users.

Mental health facilities during COVID-19³¹

I found that managers and staff at all mental health facilities inspected appeared dedicated to the welfare of the service users in their care. Service users were seen to be treated with dignity and respect, and were able to maintain contact with whānau. Measures were put in place to ensure that their staff and service users were well informed about COVID-19 and any new protocols required as a result of the pandemic.

Overall, my findings were positive. However, I made specific recommendations for improvements in three of the facilities, particularly around complaints processes for service users.

Aged Residential Care Facilities

In 2019/20, I completed the first year of a three-year work programme to set up OPCAT inspections for privately-run aged care facilities. I have streamlined the work required into five key areas: planning, information gathering, capacity building, development of inspection criteria and methodology, and carrying out inspections.

I engaged with a large range of stakeholders within the sector to understand their perspectives and expectations, recruited my first new team to work in this area, carried out orientation visits, and commenced work on the development of my inspection criteria and methodology.

I conducted 17 orientation visits to secure units in privately-run aged care facilities to help inform the development of my aged care inspections programme. I visited a range of facilities across New Zealand. These orientation visits provided a

Aged care facilities during COVID-19³³

While I was not originally planning to undertake formal inspections of aged care facilities until 1 July 2021, between April and June 2020 I responded to the need to carry out 12 COVID-19 focused inspections, at all alert levels.

My report on inspections conducted during lockdown in Alert levels 3 and 4,³⁴ outlined key findings, suggestions, and recommendations in relation to COVID-19 inspections of six secure aged care facilities.³⁵

As expected, the focus of all facilities was on their residents' wellbeing. It was clear from these inspections that this was a challenging time, however, the facilities were taking steps to keep residents safe. Overall, managers and staff were committed to minimising the impact that COVID-19 was having on residents.

The COVID-19 lockdown was a challenging and distressing time for many secure residents in aged-care, and it was important to ensure that their rights, ability to comprehend information, and protective measures, were upheld. I identified some improvements that could be made. Particular issues noted at individual facilities included the need for a clear definition of 'bubbles', consistent use of PPE, accessible information for residents and improvements to complaints processes.

greater understanding of the facilities that provide specialised secure dementia and psychogeriatric care, including their size and ownership structures. I will continue to conduct orientation visits during 2020/21 and expect inspections of privately-run aged care facilities to commence the following year.

More information about my designation to inspect privately-run as well as public secure aged care facilities, and the development of my planned programme is available on my website.³²

Appendix One

OPCAT background

Introduction to OPCAT

The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international human rights treaty that is designed to assist States to meet their obligations to prevent torture and ill-treatment in places where people are deprived of their liberty.

Unlike other human rights treaty processes that deal with violations of rights after the fact, OPCAT is primarily concerned with preventing violations. It is based on the premise, supported by practical experience, that regular visits to places of detention are an effective means of preventing torture and ill-treatment and improving conditions of detention. This preventive approach aims to ensure that sufficient safeguards are in place and that any problems or risks are identified and addressed.

OPCAT establishes a dual system of preventive monitoring, undertaken by international and national monitoring bodies. The international body, the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), will periodically visit each State Party to inspect places of detention and make recommendations to the State.

At the national level, an independent monitoring body called the National Preventive Mechanisms (NPM) is empowered under OPCAT to regularly visit places of detention, and make recommendations aimed at strengthening protections, improving treatment and conditions, and preventing torture and ill-treatment.

Preventive approach

The Association for the Prevention of Torture (APT) highlights the fact that “prevention is based on the premise that the risk of torture and cruel, inhuman or degrading treatment or punishment can exist or develop anywhere, including in countries that are considered to be free or almost free from torture at a given time”.³⁶

On the principle of prevention, the SPT noted that:³⁷

“Whether or not torture or other cruel, inhuman or degrading treatment or punishment occurs in practice, there is always a need for States to be vigilant in order to prevent ill-treatment. The scope of preventive work is large, encompassing any form of abuse of people deprived of their liberty which, if unchecked, could grow into torture or other cruel, inhuman or degrading treatment or punishment. Preventive visiting looks at legal and system features and current practice, including conditions, in order to identify where the gaps in protection exist and which safeguards require strengthening.”

Prevention is a fundamental obligation under international law, and a critical element in combating torture and ill-treatment.³⁸ The preventive approach of OPCAT encompasses direct prevention (identifying and mitigating or eliminating risk factors before violations can occur) and indirect prevention (the deterrence that can be achieved through regular external scrutiny of what are, by nature, closed environments).

The UN Special Rapporteur on Torture remarked that:

“The very fact that national or international experts have the power to inspect every place of detention at any time without prior announcement, have access to prison registers and other documents, [and] are entitled to speak with every detainee in private ... has a strong deterrent effect. At the same time, such visits create the opportunity for independent experts to examine, at first hand, the treatment of prisoners and detainees and the general conditions of detention ... Many problems stem from inadequate systems which can easily be improved through regular monitoring. By carrying out regular visits to places of detention, the visiting experts usually establish a constructive dialogue with the authorities concerned in order to help them resolve problems observed.”³⁹

Implementation in New Zealand

New Zealand ratified OPCAT in March 2007, following the enactment of amendments to the Crimes of Torture Act 1989, to provide for visits by the SPT and the establishment of the New Zealand National Preventive Mechanisms.

New Zealand has designated the following bodies to carry out functions under OPCAT:

- 1 the Independent Police Conduct Authority – in court facilities, in police cells, and of persons otherwise in the custody of the New Zealand Police.
- 2 the Inspector of Service Penal Establishments of the Office of the Judge Advocate General – in relation to people detained in service penal establishments under the Armed Forces Discipline Act 1971.
- 3 the Office of the Children’s Commissioner – in relation to children and young persons in care and protection and youth justice residences, community based remand care homes, and health and disability places of detention established specifically for the care of children and young people;
- 4 the Office of the Ombudsman – in relation to prisons, immigration detention facilities, health and disability places of detention including

privately run aged care facilities, youth justice residences, and care and protection residences, public protection order units and court facilities.

- 5 the Human Rights Commission has a coordination role as the designated Central National Preventive Mechanism.

Functions and powers of National Preventive Mechanisms

By ratifying OPCAT, States agree to designate one or more National Preventive Mechanisms for the prevention of torture and ill-treatment (Article 17) and to ensure that these mechanisms are independent, have the necessary capability and expertise, and are adequately resourced to fulfil their functions (Article 18).

The minimum powers National Preventive Mechanisms must have are set out in Article 19. These include the power to regularly examine the treatment of people in detention, to make recommendations to relevant authorities and submit proposals or observations regarding existing or proposed legislation.

National Preventive Mechanisms are entitled to access all relevant information on the treatment of detainees and the conditions of detention, to access all places of detention and conduct private interviews with people who are detained or who may have relevant information. National Preventive Mechanisms have the right to choose the places they want to visit and the persons they want to interview (Article 20). National Preventive Mechanisms must also be able to have contact with the SPT and publish annual reports (Articles 20, 23).

The State authorities are obliged, under Article 22, to examine the recommendations made by the National Preventive Mechanism and discuss their implementation.

The amended Crimes of Torture Act enables the Minister of Justice to designate one or more National Preventive Mechanisms as well as a Central National Preventive Mechanism and sets out the functions and

powers of these bodies. Under section 27 of the Act, the functions of a National Preventive Mechanism include examining the conditions of detention and treatment of detainees and making recommendations to improve conditions and treatment and prevent torture or other forms of ill treatment. Sections 28-30 set out the powers of National Preventive Mechanisms, ensuring they have all powers of access required under OPCAT.

Central National Preventive Mechanism

OPCAT envisions a system of regular visits to all places of detention.⁴⁰ The designation of a central mechanism aims to ensure there is coordination and consistency among a multi-body National Preventive Mechanism so it operates as a cohesive system. Central coordination can also help to ensure any gaps in coverage are identified and that the monitoring system operates effectively across all places of detention.

The functions of the Central National Preventive Mechanism are set out in section 32 of the Crimes of Torture Act, and are to coordinate the activities of the National Preventive Mechanism and maintain effective liaison with the SPT. In carrying out these functions, the Central National Preventive Mechanism is to:

- consult and liaise with National Preventive Mechanisms
- review their reports and advise of any systemic issues
- coordinate the submission of reports to the SPT
- in consultation with National Preventive Mechanisms, make recommendations on any matters concerning the prevention of torture and ill-treatment in places of detention.

Monitoring process

While OPCAT sets out the requirements, functions and powers of National Preventive Mechanisms,

it does not prescribe in detail how preventive monitoring is to be carried out. New Zealand's National Preventive Mechanism has developed procedures applicable to each detention context.

The general approach to preventive visits, based on international guidelines, involves:

- 1 Preparatory work, including the collection of information and identification of specific objectives, before a visit takes place;
- 2 The visit itself, during which the National Preventive Mechanism monitoring team speaks with management and staff, inspects the institution's facilities and documentation, and speaks with people who are detained;
- 3 Upon completion of the visit, discussions with the relevant staff, summarising the National Preventive Mechanism's findings and providing an opportunity for an initial response;
- 4 A report to the relevant authorities of the National Preventive Mechanism's findings and recommendations, which forms the basis of ongoing dialogue to address identified issues.

The assessments undertaken by the National Preventive Mechanism take relevant international human rights standards into account and, and involve looking at the following six domains:

- 1 Treatment: any allegations of torture or ill-treatment; the use of isolation, force and restraint;
- 2 Protection measures: registers, provision of information, complaint and inspection procedures, disciplinary procedures;
- 3 Material conditions: accommodation, lighting and ventilation, personal hygiene, sanitary facilities, clothing and bedding, food;
- 4 Activities and access to others: contact with family and the outside world, outdoor exercise, education, leisure activities, religion;
- 5 Health services: access to medical and disability care;
- 6 Staff: conduct and training.

Appendix Two

OPCAT inspections by the Chief Ombudsman

The 84 OPCAT visits and inspections were at the sites set out in the table below.

Name of facility	Type of visit	
Aged Care		
Anne Maree Gardens	Orientation Visit	Announced
Awanui Rest Home	Orientation Visit	Announced
Bradford Manor	Orientation Visit	Announced
Clare House	Orientation Visit	Announced
COVID-19 aged care (12 facilities)	COVID-19	Announced
Dunblane Rest Home and Village	Orientation Visit	Announced
Heretaunga Rest Home & Village	Orientation Visit	Announced
Hillcrest Hospital	Orientation Visit	Announced
Kiri Te Kanawa Retirement Village	Orientation Visit	Announced
Leslie Groves Hospital	Orientation Visit	Announced
Manor Park Private Hospital	Orientation Visit	Announced
Millvale House Miramar	Orientation Visit	Announced
Older Persons Unit, Waikato DHB	Informal	Unannounced
Radius Fulton Care Centre	Orientation Visit	Announced
Rawhiti Estate	Orientation Visit	Announced
Rowena Jackson Retirement Village	Orientation Visit	Announced
St Andrew’s Village	Orientation Visit	Announced
Talbot Park, Dementia facility (D6)	Informal	Unannounced
Te Hopai Home and Hospital	Orientation Visit	Announced
Whitby Rest Home and Hospital	Orientation Visit	Announced
Courts		
Hamilton High Court & District Court	Informal	Unannounced
Levin District Court	Informal	Unannounced
Te Awamutu District Court	Informal	Unannounced
Timaru District Court	Informal	Unannounced

Community / Intellectual Disability

Community Care Trust	Full	Unannounced
Community Living (two facilities)	Full	Unannounced
Emerge Aotearoa	Full	Announced
IDEA Services (five facilities)	Full	Unannounced
Navigate (two facilities)	Full	Announced
Te Roopu Taurima (five facilities)	Full	Unannounced

Immigration

Mangere Refugee Centre	Full	Announced
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Mental Health

COVID-19 mental health (five facilities)	COVID-19	Announced
He Puna Wāiora, North Shore Hospital	Full	Unannounced
Kensington Centre, Timaru Mental Health Inpatient	Full	Unannounced
Mental Health Inpatient Unit – Whangarei Hospital	Full	Unannounced
Puna Awhi-rua, Henry Rongomau Bennett Centre	Full	Unannounced
Puna Maatai, Henry Rongomau Bennett Centre	Full	Unannounced
Puna Poipoi, Henry Rongomau Bennett Centre	Full	Unannounced
Te Whare Ahuru, Hutt Valley Hospital	Full	Unannounced
Te Whare o Matairangi, Wellington Hospital	Follow-up	Announced
Te Whetu Tawera, Auckland Hospital	Full	Unannounced
Tiaho Mai, Middlemore Hospital	Full	Announced
Waiatarau, Waitakere Hospital	Full	Unannounced
Wards 34, 35, 36, Henry Rongomau Bennett Centre	Follow-up	Unannounced

Prison

Christchurch Men's Prison	Follow-up	Unannounced
Christchurch Women's	Informal	Announced
COVID-19 prisons (nine facilities)	COVID-19	Announced
Waikeria Prison	Full	Unannounced

Other

Child and Family Unit – Auckland Hospital	Informal	Announced
Christchurch PPO	Full	Unannounced
COVID-19 PPO	COVID-19	Announced

Final reports published in 2019/20 are set out in the table below.

Report	Date of publication
Prisons	
Report on an unannounced follow up inspection of Invercargill Prison – July 2019	25 July 2019
Report on an unannounced inspection of Northland Regional Corrections Facility – August 2019	20 August 2019
Report on an unannounced inspection of Tongariro Prison under the Crimes of Torture Act 1989	12 September 2019
Mental Health	
Report on an unannounced inspection of Puna Awhi-rua Forensic Inpatient Ward, Waikato Hospital, under the Crimes of Torture Act 1989	5 March 2020
Report on an unannounced inspection of Puna Maatai Forensic Inpatient Ward, Waikato Hospital, under the Crimes of Torture Act 1989	5 March 2020
Report on an unannounced inspection of Puna Poipoi Forensic Rehabilitation Ward, Waikato Hospital, under the Crimes of Torture Act 1989	5 March 2020
Report on an unannounced follow up inspection of Wards 34, 35 and 36, Waikato Hospital, under the Crimes of Torture Act 1989	5 March 2020
COVID-19 specific	
OPCAT COVID-19 report: Report on inspections of mental health facilities under the Crimes of Torture Act 1989	15 June 2020
OPCAT COVID-19 report: Report on inspections of prisons under the Crimes of Torture Act 1989	22 June 2020

The recommendations made in final inspection reports are set out in the table below.⁴¹

Facility Type	Recommendations made	Recommendations accepted or partially accepted
Prisons	17	15
COVID-19 prisons (nine facilities)	11	11
Health and disability places of detention	92	59
COVID-19 health and disability places of detention (five facilities)	5	5

Endnotes

- 1 Referred throughout as either the Optional Protocol to the Convention Against Torture or OPCAT
- 2 Designation of National Preventive Mechanisms, 2 July 2020, publicly available on <https://gazette.govt.nz/notice/id/2020-go2845>
- 3 See <https://www.seclusionandrestraint.co.nz/>
- 4 Dr Sharon Shalev, *Time for a Paradigm Shift A Follow Up Review of Seclusion and Restraint Practices in New Zealand*, 10 December 2020, publicly available on https://www.hrc.co.nz/files/5016/0755/9410/Time_for_a_Paradigm_Shift_FINAL.pdf
- 5 The Epidemic Response Committee was a select committee of the New Zealand House of Representatives established on 25 March 2020 in response to the coronavirus pandemic. The Committee was disestablished on 26 May 2020. Further publicly available information can be found on <https://www.parliament.nz/en/visit-and-learn/history-and-buildings/special-topics/epidemic-response-committee-covid-19-2020/>.
- 6 This Act contains New Zealand's practical mechanisms under the United Nations Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (OPCAT). <https://www.occ.org.nz/our-work/monitoring/monitoring-work/why-we-monitor/>
- 7 "Means the intrinsic value and inherent dignity derived from a child's or young person's whakapapa (genealogy) and their belonging to a whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the culture of the child or young person" as defined in the Oranga Tamariki Act, 1989
- 8 "Means the multi-generational kinship relationships that help to describe who the person is in terms of their mātua (parents), and tupuna (ancestors), from whom they descend" as defined in the Oranga Tamariki Act, 1989
- 9 *Te Aka Online Māori Dictionary* retrieved 16 November 2020 from <https://maoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&hist-LoanWords=&keywords=whanaungatanga>
- 10 *Te Aka Online Māori Dictionary* retrieved 16 November 2020 from <https://maoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&hist-LoanWords=&keywords=hapu>
- 11 *Te Aka Online Māori Dictionary* retrieved 16 November 2020 from <https://maoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&hist-LoanWords=&keywords=iwi>
- 12 Section 7AA, Oranga Tamariki Act, 1989
- 13 <https://www.occ.org.nz/our-work/monitoring/monitoring-work/how-we-monitor/>
- 14 More themes can be found in our Thematic Review, Hard Place to be Happy, October 2019. <https://www.occ.org.nz/assets/Uploads/HardPlaceToBeHappy-FINAL.pdf>
- 15 Data supplied by Oranga Tamariki
- 16 "*Supervision is a process in which the supervisor; enables, guides and facilitates the social worker(s) in meeting certain organisational, professional and personal objectives. These objectives are: professional competence, accountable & safe practice, continuing professional development, education and support.*"
As defined by: <https://anzasw.nz/wp-content/uploads/ANZASW-Supervision-Policy-Updated-February-2015.pdf>
- 17 This independent non-governmental organisation exists to amplify the voices of children in care and ensure that they are heard. VOYCE was codesigned by children with care experience for children with care experience.
- 18 <https://www.occ.org.nz/our-work/monitoring/covid-19-monitoring/>
- 19 Groups of Māori people (indigenous people of Aotearoa New Zealand) who have historical rights of ownership, control and sovereignty over particular areas
- 20 *Te Aka Online Māori Dictionary* retrieved 16 November 2020 from <https://maoridictionary.co.nz/search?idiom=&phrase=&proverb=&loan=&hist-LoanWords=&keywords=kaupapa+M%C4%81ori>

- 21 See inspection purpose and criteria: <https://www.ombudsman.parliament.nz/resources/criteria-opcat-covid-19-inspections>.
- 22 Three reports on COVID-19 specific inspections of facilities under the Crimes of Torture Act 1989 published in June and August 2020.
 - Mental health: <https://www.ombudsman.parliament.nz/resources/opcat-covid-19-report-report-inspections-mental-health-facilities-under-crimes-torture>.
 - Prisons: <https://www.ombudsman.parliament.nz/resources/opcat-covid-19-report-report-inspections-prisons-under-crimes-torture-act-1989>.
 - Aged care: <https://www.ombudsman.parliament.nz/resources/opcat-covid-19-report-report-inspections-aged-care-facilities-under-crimes-torture-act>.
- 23 The customary rights and connections between people, generations, and land.
- 24 Department of Corrections, Prison facts and statistics - March 2020.
- 25 Ministry of Justice, Justice Sector Prison Population Projections 2019 – 2029.
- 26 More information about the Office of Inspectorate is available on the Department's website: https://www.corrections.govt.nz/about_us/who_we_are/office_of_the_inspectorate.
- 27 Te reo name gifted after extensive consultation with Māori communities and iwi.
- 28 OPCAT COVID-19 report: Report on inspections of prisons under the Crimes of Torture Act 1989.
- 29 Rule 23 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) provides that: Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.
- 30 *'People with "high and complex needs" are a small and unique group of people with disabilities at the high end of the support needs spectrum. This group of disabled people includes those with multiple disabilities such as sensory disabilities, physical disabilities, severe intellectual disability, and serious and ongoing medical conditions. These individuals require support with self-care and basic activities of daily living. They tend to also have behaviours that require a very high level of support.'* Te Pou o Te Whakaaro Nui (2013). Valuing and supported disabled people and their family/whānau. Te Pou o Te Whakaaro Nui.
- 31 OPCAT COVID-19 report: Report on inspections of mental health facilities under the Crimes of Torture Act 1989.
- 33 OPCAT COVID-19 report: Report on inspections of aged care facilities under the Crimes of Torture Act 1989.
- 34 The report was finalised and published outside the reporting year in August 2020.
- 35 The Chief Ombudsman inspects aged care facilities where residents are unable to 'leave at will'
- 32 See <https://www.ombudsman.parliament.nz/what-we-can-help/aged-care-monitoring>.
- 36 APT (March 2011) Questionnaire to members states, national human rights institutions, civil society and other relevant stakeholders on the role of prevention in the promotion and protection of human rights, page 10.
- 37 Subcommittee on Prevention of Torture (May 2008). First Annual Report of the Subcommittee on Prevention of Torture, CAT/C/40/2, para 12.
- 38 It sits alongside the obligations to criminalise torture, ensure impartial investigation and protection, and provide rehabilitation for victims.
- 39 UN Special Rapporteur on Torture, Report of the Special Rapporteur on torture to the 61st session of the UN General Assembly, A/61/259 (14 August 2006), para 72.
- 40 OPCAT, Article 1.
- 41 COVID-19 aged care (12 facilities) published in August 2020 included four recommendations.

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