

# Contents

Foreword	10
<b>1. Introduction</b>	<b>17</b>
1.1 A snapshot of children in detention	21
1.2 Australian law and the detention of children	24
1.3 Does the Government owe a duty of care to children in detention?	25
1.4 International law and the detention of children	25
<b>2. Findings and recommendations</b>	<b>29</b>
Findings	29
Recommendations	37
<b>3. Methodology</b>	<b>41</b>
3.1 Terms of Reference	41
3.2 Methodology	42
3.3 Definitions	44
3.4 Timeframe for the report	46
3.5 Commission's previous work concerning children in detention	46
3.6 Structure of the report	48
<b>4. An overview of the children in detention</b>	<b>51</b>
4.1 Nationalities of the children in detention	51
4.2 Reasons for seeking asylum	52
4.3 Age of children in detention	53
4.4 Unaccompanied children	54
4.5 When did the children arrive in Australia?	54
4.6 How long are children kept in detention?	55
4.7 Movement of children across the detention network	57
4.8 Mental health and wellbeing of children in detention	58
4.9 Detention is a dangerous place	62
4.10 Rates of self-harm amongst children	62
4.11 Mental health of parents	63
4.12 Children with disabilities	65
4.13 Children's views about detention	68
4.14 The right to identity	72
4.15 Inquiry findings relevant to <i>all</i> children in detention and to children held on Christmas Island	74

<b>5.</b>	<b>What does the law say about detaining children?</b>	<b>79</b>
5.1	Mandatory detention and lawfulness	79
5.2	Arbitrariness	80
5.3	Review of detention	82
5.4	Shortest appropriate period of time	82
5.5	Decision-making in relation to children	83
5.6	Minimum conditions of detention	84
5.7	Duty of care	85
5.8	Findings in relation to detention law, policy and practice	85
<b>6.</b>	<b>Mothers and babies in detention</b>	<b>87</b>
6.1	Responsive and sensitive parenting	87
6.2	Pregnant women in Australian detention centres	88
6.3	Pregnancies on Nauru	89
6.4	Babies with no nationality	90
6.5	Miscarriages, deaths and terminations	90
6.6	Family separation	91
6.7	Mental health disorders in new mothers	92
6.8	Parent disempowerment	92
6.9	Motor, sensory and language development in babies	94
6.10	Adequate nutrition and health care	95
6.11	Protection from physical danger	97
6.12	July 2014 unrest at Construction Camp Detention Centre, Christmas Island	98
6.13	Findings specific to mothers and babies	102
<b>7.</b>	<b>Preschoolers in detention</b>	<b>105</b>
7.1	Forming relationships	105
7.2	The detention environment	107
7.3	Opportunities for play, learning and development	111
7.4	Impacts on preschoolers	115
7.5	Findings specific to preschoolers	118

<b>8. Primary school aged children in detention</b>	<b>121</b>
8.1 Needs and development of children at this stage of life	121
8.2 Emotional health and wellbeing	123
8.3 The role of parents in detention	128
8.4 Physical environment of detention and resources	129
8.5 School education	130
8.6 Excursions out of detention	132
8.7 Findings specific to primary school aged children	134
<b>9. Teenagers in detention</b>	<b>137</b>
9.1 Needs and development of teenagers	137
9.2 Physical environment of detention	138
9.3 Emotional wellbeing and self-harm	139
9.4 Safety	141
9.5 Security measures and dignity	141
9.6 Relationships with parents	144
9.7 Relocations	145
9.8 Provision of medical services	146
9.9 Education	146
9.10 Recreation	147
9.11 Findings specific to teenagers	148
<b>10. Unaccompanied children in detention</b>	<b>151</b>
10.1 Impact of detention on emotional and mental wellbeing	152
10.2 Self-harm by unaccompanied children	156
10.3 Pontville Detention Centre	159
10.4 Forcible transfer of children to Bravo Compound at Christmas Island	160
10.5 Guardianship and welfare	166
10.6 Findings specific to unaccompanied children	169
<b>11. Children indefinitely detained</b>	<b>173</b>
11.1 Refugees with adverse security assessments	173
11.2 Sydney Detention Centre	174
11.3 Findings in relation to children indefinitely detained	179

<b>12. Children in detention on Nauru</b>	<b>181</b>
12.1 Accommodation	181
12.2 Facilities	183
12.3 Provision of clothing and footwear	183
12.4 Recreation and play	184
12.5 Education	184
12.6 Security measures	185
12.7 Policy guiding the transfer of children to Nauru	185
12.8 Impact of detention on children	186
12.9 Transfer of unaccompanied children	187
12.10 Child protection and allegations of abuse	188
12.11 Health services	188
12.12 Republic of Nauru Hospital	189
12.13 Mental health services	190
12.14 Pre-transfer assessment processes for people being sent to Nauru	190
12.15 Failure to consider the best interests of the child	192
12.16 Lack of individual assessments of the needs of the child	193
12.17 The scope of the Commission to inquire into detention on Nauru	194
12.18 Findings in relation to children on Nauru	195
<b>13. Continuing impacts on children once released</b>	<b>197</b>
13.1 How are children faring once released?	198
13.2 Continuing impacts of detention on infants and preschoolers	201
13.3 Continuing impacts of detention on primary school aged children	202
13.4 Continuing impacts of detention on teenagers	202
13.5 Ongoing impacts of long term detention	205
13.6 Findings regarding the continuing impacts of detention	206
<b>Endnotes</b>	<b>207</b>
<b>Appendices</b>	
1. Review of detention policy and practices 2004–2014	239
2. Detailed Inquiry methodology	248
3. List of public submissions	259
4. Schedule of public hearings and witness list	267
5. Notices to Produce	270
6. Inquiry questionnaire forms	286
7. Departmental policies and procedures	301
8. Departmental responses to findings and recommendations of the Inquiry	305
9. Acknowledgements	