16 June 2022

The Hon Geoff Lee MP
Minister for Corrections

The Hon Natasha Maclaren-Jones
Minister for Families and Communities

By email

Dear Ministers

Re: Legislative amendment to prohibit strip-searches of children

We write on behalf of the NSW Branch of The Royal Australian and New Zealand College of Psychiatrists (RANZCP), the RANZCP NSW Faculty of Child and Adolescent Psychiatry and the RANZCP Section of Child and Adolescent Forensic Psychiatry.

We would like to express our disappointment at the NSW Government’s lack of action on the recommendations contained in the NSW Ombudsman’s special report, produced under section 31 of the Ombudsman Act 1974, Strip searches conducted after an incident at Frank Baxter Youth Justice Centre.

The NSW Ombudsman’s special report was tabled in Parliament on 8 June 2021. It detailed the strip-searching of three children in 2019 by Corrective Services NSW (CSNSW) officers, where the children were made to completely undress and spread apart their buttocks in a room monitored by CCTV.

The Ombudsman found the searches to be “oppressive”, “disproportionate to the risk posed”, and unreasonable, as there was no evidence the officers had a reasonable suspicion contraband was secreted in that area, which is a policy requirement before inspecting between a person’s buttocks.¹

The Ombudsman report found that the search represented a circumvention of the laws governing searches of children and young people in detention because of a Memorandum of Understanding (MOU) between Youth Justice NSW and Corrective Services NSW:

In effect, the youth justice centre becomes legally ‘cloaked’ as an adult correctional centre for so long as the CSNSW officers have control of it, so that the children and young people in that centre may lawfully be treated by those officers in the same way.²

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¹ NSW Ombudsman, Strip searches conducted after an incident at Frank Baxter Youth Justice Centre. 8 June 2021, p. 9
² NSW Ombudsman, Strip searches conducted after an incident at Frank Baxter Youth Justice Centre. 8 June 2021, p.1
The report called for legislative amendment to *expressly prohibit* such searches of children and young people in detention.³

We are aware that the Government has opposed legislative change, but has updated the MOU. We support the Ombudsman’s recent assessment that the changes to the MOU do not effectively address the issues raised.

Representing NSW senior medical specialists with significant expertise in treating children and adolescents, we believe that the Government has not taken sufficient steps to protect the rights of children and young people.

We agree with the NSW Ombudsman’s calls that the NSW Government must pass laws to expressly prohibit fully-naked-body searches of children and young people in detention, and amend existing laws to ensure partial-body searches use the least intrusive method required to achieve the purpose of the search.

Should you wish to discuss this issue further, please do not hesitate to contact us, via Julia Thoener, on 02 9352 3606 or Julia.thoener@ranzcp.org

Yours sincerely

[Signature]

Dr Angelo Virgona
Chair, RANZCP NSW Branch Committee

Professor Valsamma Eapen
Chair, RANZCP NSW Faculty of Child and Adolescent Psychiatry

Dr Yolisha Singh
Chair, RANZCP Section of Child and Adolescent Forensic Psychiatry

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³ NSW Ombudsman, Recommendation 1, *Strip searches conducted after an incident at Frank Baxter Youth Justice Centre*. 8 June 2021, p.13