

# Australian police custody and people who use drugs: Gaps and opportunities

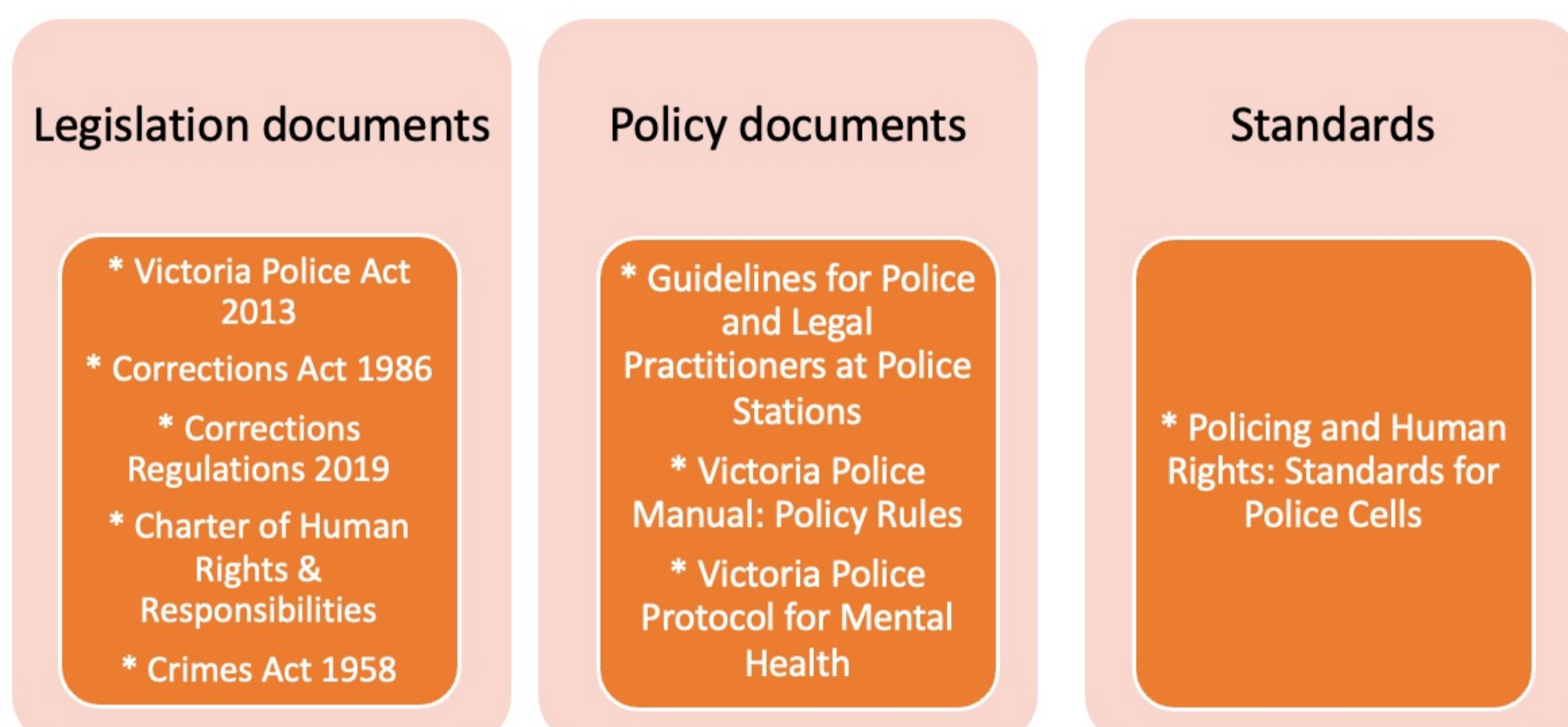


## WHAT IS POLICE CUSTODY AND WHO IS DETAINED?

In Australia, police custody (AKA police cells, watchhouse, lock-up) is the first point of detention in the criminal justice process after arrest. Most people are released without charge or are bailed into the community. The remainder are held until court or transfer to prison. In Victoria and Queensland, people can be held for up to 14 days, whereas in all other jurisdictions, people can only be held for 48-96 hours. People held in police custody are amongst the most marginalised people in the community. They are more likely to experience poor mental and physical health outcomes, alcohol and other drug dependencies and socio-economic disadvantage than the general community and many people when they arrive in police custody are mentally unwell, intoxicated or withdrawing from drug use.

## Study Methods

We examined publicly available documents, including government reports, policing policies, academic literature, Ombudsmen reports, and human rights frameworks and treaties to determine gaps/opportunities for addressing detainee safety/healthcare issues.



Human rights principles		Legislation	Policy documents	Standards
<b>Facilities and physical conditions</b>	Untried prisoners to sleep in single rooms.	✗	✗	✓
	Clean clothing (suitable to the climate) and bedding	✗	✗	✓
	Access to fresh air and exercise	✗	✗	✓
	Access to drinking water and nutritious food	✗	✗	✓
<b>Health Care</b>	Right to same standard of healthcare as the community including right to confidentiality, informed consent, etc	✗	✓	✓
	Continuity of care e.g., for HIV, drug dependence	✗	✓	✓
	Health-care service tasked with evaluating, promoting, protecting and improving the physical/mental health of prisoners	✗	✓	✓
	Particular attention given to people with special health needs e.g., people with mental illness	✗	✓	✓
	Prompt access to medical attention	?	✗	✓
	Each person should be assessed as soon as possible after admitted	✗	✓	✓
<b>Legal rights and contacts</b>	The right to be promptly informed about reasons for detention	✓	✗	✓
	Right a phone call	✗	✗	✓
	Right to a visitor/contact with family/friends via writing/phone call	✓	✗	✓
	Provided with information about rights and obligations	?	✗	✓
	Right to have timely info. about case (what's happening to them)	?	?	?
	The right to immediately inform family or friend about their imprisonment and any serious injury or illness	✓	✗	✓

## Background

Limited publicly available data exists about the numbers/characteristics of people detained in police custody in Australia. Our previous study which examined lived experiences of police custody for young men with histories of incarceration and injecting drug use in Victoria, Australia, found young men's treatment/care while detained was in breach of human rights principles. Many young men suffered drug intoxication and/or withdrawal and were mentally unwell while detained and yet access to medication/health care was often delayed or non-existent. Some young men self-harmed to draw the attention of custody staff when legitimate requests to address needs were ignored or not taken seriously. Young men described experiences of being held in harsh, inhumane conditions, sometimes without access to fresh air and natural light and inadequate facilities and resources to maintain personal hygiene.

## Study Aim

To determine what protections are in place (or NOT) to ensure the human rights and health and wellbeing needs of people held in police custody in Victoria are addressed.

I thought life was over when I got there! There's no windows, no skylight. Food is handed to you through the hole in your door. You share a room with 4 others. And you have to shower in front of everyone. You wear the same clothes you got locked up in! Yeah, you're in filth the whole time! And everyone's comin' down off drugs! Yeah, just fuckin' remembering that place was ... It's shit! Yeah, it's the worst thing about doin' time.



## Results

We found few enforceable protections exist regarding detainee healthcare rights and physical standards of police cells, and that limited transparent avenues exist for detainees to lodge complaints. Although Australia is a signatory to the Optional Protocol to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [OPCAT], which aims to protect people's human rights in detention, Australia is the only developed nation having delayed OPCAT obligations.

## Conclusion

People detained in police custody retain the right to be treated fairly and humanely and receive appropriate healthcare to meet their needs. While limited enforceable protections exist to protect these rights exist, and information about their needs remains unreported, their health and well-being needs will remain unaddressed.

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