

Individual Communication

To The

United Nations Human Rights Committee

Under the First Optional Protocol to the International Covenant on Civil and Political Rights

TO: Petitions Team
Office of the United Nations High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10, Switzerland

EMAIL: tb-petitions@ohchr.org

DATE: 2 August 2025

SUBJECT:

Human Rights Complaint - Individual Communication

I. Information concerning the author of the communication

Name: Flight Lieutenant Robert Johnston (RAAF retired)

Address: 20 Ludlow Street, Chapel Hill 4069, Brisbane, Queensland, Australia

Nationality: Australian

Date of Birth: 31 July 1958

Profession: Retired Royal Australian Air Force Officer

Submitted by: Dr Amanda Gearing (with written authorization from Mr Johnston)

Address: 140 Rafting Ground Road, Brookfield, Brisbane 4069, Australia

Email: gearingap@bigpond.com

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II. Information concerning the state party

State Party: Commonwealth of Australia

Date of entry into force of the Covenant for the State Party: 13 November 1980

Date of entry into force of the Optional Protocol for the State Party: 25 December 1991

III. Information concerning the violation

Articles of the ICCPR Allegedly Violated:

Article 7 - Freedom from torture and cruel, inhuman or degrading treatment

Article 9 - Right to liberty and security of person

Article 12 - Freedom of movement and residence

Article 14 - Right to fair trial and due process

Article 17 - Right to privacy and protection from arbitrary interference with home

Article 26 - Equal protection under the law without discrimination

IV. Exhaustion of domestic remedies

Ministerial Authority and Conflict of Interest in Domestic Remedies

Under section 44 of the Hospital and Health Boards Act 2011 (Qld), the Minister for Health possesses explicit statutory authority to give directions to Hospital and Health Services, with boards being directly accountable to the Minister and responsible for ensuring their services perform their functions under the Act. This ministerial power includes the authority to issue protective directions to prevent further inappropriate application of mental health legislation against Mr Johnston. However, the ministerial office's response creating a procedural barrier requiring verification through Queensland Health - the very organization that allegedly violated Mr Johnston's rights - establishes an inherent conflict of interest that renders domestic remedies inadequate.

Additionally, Queensland mental health legislation does not require disclosure of who initiates examination authorities, with the Mental Health Review Tribunal making these orders on application without mandating disclosure of the source of such requests to the subject. This systemic opacity, combined with the Minister's unwillingness to exercise protective powers without verification from the accused institution, demonstrates the inadequacy of available domestic remedies to provide effective protection or accountability in this case.

Mr Johnston and his representative have attempted to exhaust all available domestic remedies:

1. **August 2024:** Written complaint to Queensland Health Minister Shannon Fentiman seeking explanation for September 2023 detention
2. **April 2025:** Formal request for ministerial intervention to Hon. Tim Nicholls, Minister for Health
3. **Police complaints:** Reports filed with Queensland Police Service regarding unauthorized entries and property damage
4. **Health system complaints:** Attempts made through Brisbane North Hospital and Health Service

5. **Ethical Standards Unit:** Ministerial office offered referral to Queensland Health's Ethical Standards Unit (declined by complainant due to conflict of interest concerns)

Ministerial Response: The Minister's office (Haydn Thurlow, Chief of Staff) stated in correspondence dated 23 April 2025 that no ministerial intervention would be provided without "allegations being received and verified through Queensland Health or an appropriate independent channel." However, this creates a conflict of interest as Queensland Health is the very organization that allegedly violated Mr Johnston's rights.

V. Statement of facts

Background

Mr Robert Johnston is a retired Flight Lieutenant of the Royal Australian Air Force with no history of mental health issues or criminal conduct. A character reference from a retired Queensland District Court Judge who has known Mr Johnston for 40 years, describes him as "an honest, loyal, respectful and likeable person" who "is a non-violent man leading a quiet life."

September 2023 - First Unlawful Detention

- Mr Johnston was taken from his Brisbane home and placed involuntarily in the Royal Brisbane Hospital Mental Health Unit for 11 days
- Upon release, hospital staff informed him that his detention had been "an error"
- He was denied an exit report explaining the circumstances
- No psychiatric diagnosis was made, and no treatment was required

2024

Mr Johnston wrote to the previous Health Minister Shannon Fentiman, seeking an explanation as to why he was involuntarily detained for 11 days in 2023.

17 September 2024 - Unlawful Home Invasion and Search

- Mental health nurses and police forcibly entered Mr Johnston's property without proper legal authorization while he was not present.
- Police kicked in his door, causing damage documented in Queensland Police Service Notice of Damage Report.
- An extensive search was conducted, including the ceiling cavity.
- A Lever Arch File of personal documents was removed from the premises without notification or warrant;

- The Royal Brisbane and Women's Hospital (RBWH) possessed only an "Authority to Transport," NOT an Emergency Examination Authority as required under Queensland's Mental Health Act 2016 for such intrusive interventions;
- The Lever Arch file of documents was mysteriously returned to the house the following day.

19 November 2024 - Threats and Second Detention

- Multiple police vehicles and ambulance arrived at Mr Johnston's residence
- Constable Christian Lee admitted to Dr Gearing (in a video-recorded conversation) that he had previously broken into the house and threatened to do so again if Mr Johnston did not voluntarily exit
- Video evidence from this date shows Mr Johnston sitting calmly in his home, speaking rationally and peacefully through a window to the police officer. The footage demonstrates that Mr Johnston posed no threat to himself or others, displayed no signs of mental disturbance, and was communicating coherently and appropriately. This visual evidence directly contradicts any assertion that Emergency Examination Authority criteria were met.
- Mr Johnston was transported to Prince Charles Hospital despite requesting to go to a veterans' facility
- Mr Johnston's treating consultant psychiatrist at Prince Charles Hospital has confirmed that RBWH had booked an Electro-convulsive Treatment suite and had the intention to involuntarily subject Mr Johnston to this 'treatment' had he arrived at RWBH that day.
- Mr Johnston's treating consultant psychiatrist has confirmed to Mr Johnston and myself (in a recorded conversation) that RBWH has admitted adding false information about alleged "weapons" in Mr Johnston's vehicle and that this false information had been deliberately fabricated by RBWH staff and added to his medical file as a form of legal 'insurance' in case Mr Johnston sued the hospital for being wrongly held the previous year for 11 days.

Fabrication of Medical Evidence

A senior consultant psychiatrist at Prince Charles Hospital confirmed that:

- RBWH staff deliberately "created" false information in Mr Johnston's medical records as "insurance" against potential legal action they feared he might take,
- This false information was used to justify continued interventions,
- Mr Johnston has never intended to take legal action and has consistently sought only to be left alone.

Dr Wims further provided professional insight into the systemic nature of these violations, explaining that

"unless you have a Royal Commission and you can have some of the power that a royal Commission is able to bring to things - individuals pursuing big organisations are usually the high end to nothing because the big organisations have got more power, more resources, more money. They've got access to lots of legal minds who can all manipulate the legislation to their favour, and they will then almost gaslight people into saying that they're wrong, that they're mental, that they're unwell, etcetera, et cetera." See Document 7, attached.

Dr Wims advised Mr Johnston to "don't get embroiled in trying to get them to apologise, trying to get them to admit their wrongdoing - because I don't think they ever will," demonstrating the futility of seeking accountability through normal channels. He acknowledged that "We are trying. I'm hoping to be an example of that, that we are trying as a health profession and as a Service, to repair harms that we have done but it's slow progress." See Document 7, attached.

Professional Medical Assessment

The Prince Charles Hospital consultant psychiatrist provided formal documentation confirming:

- Mr Johnston has **no** psychiatric diagnosis;
- He requires **no** psychiatric medication or treatment;
- He is of sound mind; and
- The previous detentions were not medically justified.

Ongoing Violations

- Multiple unauthorized entries to Mr Johnston's home while he was hospitalized,
- Evidence of continued surveillance (a hidden mobile phone was tracked and interfered with and replaced untidily making the discovery of the phone obvious),
- Mr Johnston has never been informed who initiated the 2023 and 2024 detentions or the grounds for them,
- He continues to live in fear of further arbitrary detention and involuntary 'treatment' with Electro-Convulsive Therapy despite having no psychiatric condition.

VI. Systematic Violation of Queensland Mental Health Legislation

The actions taken against Mr Johnston violated Queensland's own mental health legislation in multiple fundamental ways, demonstrating that the State has failed to adhere even to its domestic legal protections:

Unlawful Emergency Examination Authority Process:

Queensland Health's official fact sheets clearly establish that Emergency Examination Authorities (EEAs) under the Public Health Act 2005 require the person's behavior to indicate they are at "immediate risk of serious harm" which "appears to be a result of a major disturbance in the person's mental capacity." The legislation specifically references behaviours such as "threatening suicide" or "harming themselves."

Mr Johnston displayed no distress or threatening behavior and no risk of suicide or self-harm. On the contrary, he was living quietly and peacefully at home and there was no evidence of any "major disturbance in mental capacity".

Violation of Fundamental Legislative Principles:

The Mental Health Act 2016 explicitly "promotes the voluntary engagement of people requiring mental health treatment and care." This principle requires that voluntary options be explored and offered before any involuntary measures are considered. However, Mr Johnston was never:

- Approached for voluntary consultation or treatment
- Offered any form of voluntary mental health assessment
- Given the opportunity to engage voluntarily with mental health services

Instead, the first and only approach was immediate involuntary detention, despite Mr Johnston showing no signs of distress, mental illness, or representing any harm to himself or others. This direct contradiction of the Act's foundational principle demonstrates that Queensland Health systematically disregarded not only the procedural requirements but the fundamental philosophy of its own mental health legislation. The Act's emphasis on voluntary engagement as the preferred pathway makes the immediate resort to coercive powers particularly egregious, especially given the complete absence of any indicators that would justify bypassing voluntary approaches.

Procedural Violations:

Queensland legislation specifies that only Queensland Police Service (QPS) officers or Queensland Ambulance Service (QAS) officers can make EEAs, and this must be done "on completion of the relevant sections of the 'Emergency examination authority form.'" However:

- The process appears to have been initiated by RWH mental health staff, not authorized QPS/QAS officers,
- RWH possessed only an "Authority to Transport," which is not a valid EEA under Queensland legislation,
- No proper EEA form appears to have been completed.

Excessive Use of Force Beyond Legislative Authority:

Even with valid authorities, Queensland legislation requires force to be "necessary and reasonable in the circumstances." Property searches are only authorized if "a doctor or health practitioner believes the person may have possession of a harmful thing." The actions taken against Mr Johnston exceeded these legislative limits:

- Forced entry to his property when he was not present
- Extensive search of his home, including ceiling cavity
- Removal of personal documents without any legal justification under mental health legislation
- Use of force that was neither necessary nor reasonable given the absence of any immediate risk

Lack of Legal Threshold:

The Queensland Health fact sheets emphasize that EEAAs are for persons who "warrant an immediate health examination" due to behaviours indicating immediate risk. Mr Johnston's peaceful demeanour and lack of distressing behavior meant that even under Queensland's own legal framework, no authority existed to detain him. Contemporaneous video evidence conclusively demonstrates that Mr Johnston exhibited none of the behaviours required under Queensland legislation for detention. The footage shows a calm, rational individual engaging in peaceful dialogue, providing irrefutable proof that no 'immediate risk of serious harm' or 'major disturbance in mental capacity' existed.

VII. Legal arguments - violations of the ICCPR

Article 7 - Freedom from Torture and Cruel, Inhuman or Degrading Treatment

The systematic use of mental health legislation to detain, intimidate, and silence Mr Johnston constitutes cruel, inhuman, and degrading treatment. The deliberate fabrication of false medical evidence and the use of psychiatry as a tool of persecution falls within the scope of psychological torture. The threat of involuntary electro-convulsive therapy and the systematic pattern of harassment, surveillance, and repeated arbitrary detention creates a climate of psychological persecution designed to silence and intimidate.

Article 9 - Right to Liberty and Security of Person

- **Para 1:** Mr Johnston was arbitrarily deprived of his liberty without legal justification in both 2023 and 2024
- **Para 2:** He was not informed of the reasons for his detention or who initiated the orders
- **Para 3:** Detentions were not carried out in accordance with proper legal procedures under the Mental Health Act 2016. See Document 1 and 2, attached.
- **Para 4:** He was denied the right to challenge the lawfulness of his detention before a court

Article 12 - Freedom of Movement and Residence

Repeated unauthorized entries into his home and the threat of future detentions severely restrict Mr Johnston's freedom of movement and peaceful enjoyment. He is afraid to live at home and had had to live elsewhere for several months – with no prospect at present of being able to safely return to his home.

Article 14 - Right to Fair Trial and Due Process

Mr Johnston was subjected to mental health powers without proper procedural safeguards, legal representation, or independent review. The fabrication of evidence violates fundamental principles of justice. As confirmed by Dr Wims, the institutional power imbalance means that "big organisations have got more power, more resources, more money. They've got access to lots of legal minds who can all manipulate the legislation to their favour and they will then almost gaslight people into saying that they're wrong, that they're mental, that they're unwell." This systematic denial of due process through institutional manipulation of legal procedures fundamentally undermines the right to fair treatment under law.

Article 17 - Right to Privacy and Protection of Home

- Multiple unauthorized searches of his home without warrants
- Removal and return of personal documents without legal authority
- Continued surveillance and interference with his private life
- Fabrication of false information in confidential medical records

Article 26 - Equal Protection Under the Law

The State has failed to provide Mr Johnston with equal protection under mental health legislation, subjecting him to arbitrary treatment not faced by other citizens. Moreover, the State has failed to apply its own legal protections, denying him the safeguards that Queensland legislation is designed to provide.

VIII. Remedies sought

1. **Declaration** that Australia has violated Articles 7, 9, 12, 14, 17, and 26 of the ICCPR
2. **Immediate Protection** - Direction to Australia to:
 - Issue formal instructions prohibiting any further detention or harassment of Mr Johnston under mental health legislation;
 - Provide copies of the fabricated medical records to Mr Johnston and to the Australian Health Practitioners Registration Authority for investigation;
 - Remove all fabricated information from his medical records; and
 - Provide written confirmation that his records have been corrected.
3. **Information Disclosure** - Require Australia to provide Mr Johnston with:
 - Identity of who initiated the 2023 and 2024 detentions;
 - The grounds upon which these detentions were based; andCopies of all detention orders and medical assessments.
4. **Accountability Measures** - Direct Australia to:
 - Conduct an independent investigation into the abuse of mental health powers in this case;
 - Implement safeguards to prevent similar violations; and
 - Provide appropriate training to health and police personnel.
5. **Legislative Compliance Review** - Direct Australia to:
 - Conduct a comprehensive review of Queensland mental health detention procedures to ensure compliance with its own Mental Health Act 2016 and Public Health Act 2005;
 - Implement mandatory training for police, ambulance, and mental health staff on proper EEA procedures and legal thresholds; and
 - Establish independent oversight mechanism to prevent misuse of mental health powers.
6. **Compensation**

Mr Johnston seeks no financial compensation. He seeks a written assurance that he will not be interfered with again by any involuntary actions of the State Government including the Health Department.

7. **Public Acknowledgment** of the violations and a formal apology by the Mental Health Unit and the Minister for failing to authorise a protection order.

IX. Urgency and interim measures

Request for Interim Measures: Mr Johnston continues to live in fear of further arbitrary detention and cannot live in his own home until it is safe for him to do so. We respectfully request that the Committee urge Australia to:

- Immediately cease all harassment and surveillance of Mr Johnston;
- Provide written assurance that no further mental health powers will be used against him pending resolution of this complaint; and
- Ensure his safety and security.

X. Other international proceedings

This matter has not been submitted to any other international court, tribunal, or procedure of international investigation or settlement.

XI. Supporting documents

1. Queensland Health Fact Sheet: Examination Authorities.
2. Queensland Health Fact Sheet: Emergency Examination Authorities.
3. Authorisation of Dr Amanda Gearing to communicate with the UN on his behalf.
4. Chronology of events with detailed timeline.
5. Queensland Police Service Notice of Damage Report (19 September 2024).
6. Summary of police interview with Constable Christian Lee.
7. Transcript of relevant section of the consultant psychiatrist telehealth appointment (10 December 2024).
8. Ministerial correspondence with Office of Hon. Tim Nicholls MP (23 April and 28 April 2025).
9. Medical discharge summary from Prince Charles Hospital confirming no psychiatric diagnosis.
10. Video evidence of Mr Johnston sitting in house and calmly speaking through an open window to the police officer.
11. **Contemporaneous Video Evidence as Definitive Proof of Unlawful Detention:**

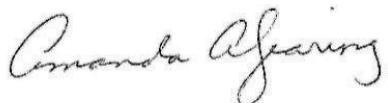
The video recording of Mr Johnston sitting calmly in house and communicating with police officers through his window on 19 November 2024 provides indisputable visual

evidence that completely undermines any possible justification for his detention. This contemporaneous footage demonstrates Mr Johnston's rational, peaceful state and directly contradicts any assertion that emergency circumstances existed. The recording provides objective, irrefutable proof that Queensland's Emergency Examination Authority criteria were not met, as it shows an individual displaying no signs of distress, mental disturbance, or threat to himself or others. This visual documentation makes clear that the detention was completely unjustified under both Queensland's own Mental Health Act 2016 and Public Health Act 2005, as well as under international human rights standards. The video evidence transforms the factual foundation of this complaint from contested allegations to objective, indisputable proof of systematic violation of Mr Johnston's fundamental rights.

XII. Declaration

I, Dr Amanda Gearing, acting as authorized representative for Mr Robert Johnston, hereby declare that the information provided in this communication is true and accurate to the best of my knowledge. Mr Johnston has provided written authorization for me to submit this complaint on his behalf.

Signature:



Dr Amanda Gearing
Authorized Representative

Signature:



Robert Johnston

Contact for correspondence:

Dr Amanda Gearing

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Queensland, AUSTRALIA

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With Attached Supporting Documents