Queensland Law Society

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Office of the President

22 December 2022

Our ref: BT-MC

Committee Secretary
Education, Employment and Training Committee
Parliament House
George Street
Brisbane QLD 4000

By email: [redacted]

Dear Committee Secretary

Corrective Services (Emerging Technologies and Security) Amendment Bill 2022

Thank you for the opportunity to provide feedback on the Corrective Services (Emerging Technologies and Security) Amendment Bill 2022 (**Bill**), which makes various amendments to the *Corrective Services Act 2006* (**Act**). The Queensland Law Society (**QLS**) appreciates being consulted on the Bill.

This response has been compiled by the QLS Criminal Law Committee and Childrens Law Committee, whose members have substantial expertise in this area.

Inappropriate timeframe for meaningful consultation

At the outset, we are concerned with continually short timeframes to respond to important legislation, and in particular consultation over the end of year break. A call for submissions on the Bill was issued to stakeholders on Tuesday, 6 December 2022 and responses are requested by Wednesday, 11 January 2023, in the middle of the traditional business closure period of 24 December 2022 to 9 January 2023. Almost all of our volunteer legal policy committee members are away during this period.

The reforms proposed in the Bill are significant and will have wide-ranging implications for Queenslanders. This is an inappropriate time of year to conduct such significant consultation and the timeframe provided is inadequate. It is in all our best interests to ensure proposed laws work as effectively and efficiently as possible, and this requires meaningful and robust consultation with stakeholders. Short consultations held during the Christmas and New Year shut down period will not yield the best legislation for the people of Queensland.

We note also there are currently three important pieces of legislation out for consultation, all with public hearings scheduled for the same day.[1] There is significant work and time involved in preparing for, and ensuring our committee members are available to appear before, public hearings.

In light of the short timeframes, and with the assistance of available expert volunteer committee members, we have prepared a response focusing on some key issues. There are likely a wide

[1] Being: this Bill; the Births, Deaths and Marriages Registration Bill 2022 and the Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022.

range of other issues which we have not had the time nor opportunity to consider in detail. If we have not commented on other aspects of the Bill, it should not be taken as assent or support.

Executive summary and key recommendations

We support the underlying policy intent of the Bill to ensure the correctional system can effectively respond to emerging threats and technology and support frontline operations. However, we consider there are a number of concerning unintended consequences arising out of the Bill that should be addressed. We are particularly concerned that some aspects of the Bill may be contrary to the human rights enshrined in the *Human Rights Act 2019* (Qld) (**HR Act**).

To address these concerns, we make a number of key recommendations, on which we elaborate further below.

Key Recommendations:

Clause 4 Amendment of s 12 (Prisoner security classification)

- We seek further information about the risk sub-categories and the consequences of each categorisation. Without this information, we cannot provide any substantive feedback on the introduction of risk sub-categories.
- It appears that the attachment of a risk sub-category may have a significant impact on a prisoner's rights within a corrective service environment. We do not consider it appropriate for such information to be contained in regulation. For clarity and transparency, the risk sub-categories should be introduced into the Act.
- Subsection 12(3) (in cl 4(5)) is redundant and should be deleted.
- Subsection 12(5) (in cl 4(5)) should be amended to require that a prisoner with a security classification of low must (not may) be detained in a low custody facility, unless there are exceptional circumstances that justify to justify their detention in a particular facility. Examples of what may constitute "exceptional circumstances" should be provided in the legislation; for example, proximity to family supports for the prisoner, accessibility, or where placement is otherwise prohibited under the Act.
- Section 12 should be further amended to stipulate that any person who is required to be transferred from a youth detention facility to an adult corrective services facility by reason of age must be classified prior to the transfer occurring, to ensure rehabilitation of young detainees is not unduly interrupted on account of the transfer.

Clause 5 Amendment of s 13 (Reviewing prisoner's security classification)

- Subsection 13(2) should be deleted.
- Subsection 13(2A)(a) should be amended to provide that a prisoner may request the security classification be reviewed if a review has not been requested during the previous six months (instead of the proposed 12 months).
- Subsection 13(2A)(b) should be amended to retain the current 12 month period for review in relation to prisoners with a security classification of high, and mandate a review every 6 months for prisoner's with a risk sub-category of maximum (which we presume will remain in some form via the new risk sub-categories).
- We recommend retention of current s 13(1)(c) of the Act, which requires the chief executive to review a prisoner's security classification when the court orders a change of imprisonment term.

Key Recommendations (cont'd):

Clause 7 Amendment of s 21 (Medical examination or treatment)

- There should be an express provision in s 21 providing that a prisoner does not have to submit to a medical examination or treatment by a health practitioner unless required under the Act.

Continued use of searches requiring the removal of clothing (strip searches)

- Further consideration should be given to removing the ability for strip searches to be conducted in the vast majority of circumstances contemplated by the Act, and particularly in situations where an imaging search may be conducted as a less intrusive measure.

Clause 11 Amendment of s 60 (Maximum security order)

- The need for a maximum (or equivalent risk sub-category) security classification prior to the making of a maximum security order should be retained. In the absence of a maximum (or equivalent risk sub-category) security classification, we consider the threshold for a maximum security order requires more than 'generally, the prisoner is a substantial threat'.
- Subsection 60(4) of the Act should be retained to ensure a maximum security order cannot be in place for a period longer than six months.

Clause 14 Amendment of s 124 (Other offences)

- Clause 14 should be deleted in its entirety.
- In the alternative, we recommend deletion of subsection 124(3)(b) and clarification of the definition of 'restricted area' in the Act itself (and not by way of regulation).

Clause 19 Insertion of new ch 4, pt 3A (Electronic surveillance)

- Any surveillance of prisoner's cells should give due consideration to a prisoner's rights under the HR Act.
- The scope of any electronic surveillance should be expressly limited to matters relevant to the purpose for which surveillance may be authorised.
- New s 173A must address the issue of legal visits. Electronic surveillance should not, under any circumstances, be used (or be able) to record audio of a legal visit.

Clause 20 Replacement of ch 4, pt 5 (Scanning searches)

- Appropriate policies should be put in place across all corrective services facilities to ensure current search procedures remain in place for legal practitioners when attending prisons as their place of work.

Clause 28 Insertion of new ch 6, pt 2, div 3 (Declaration of emergency)

- Subsection 271B(2)(3) should be amended to provide 'the chief executive is satisfied the public health emergency poses an imminent risk to the health or safety of a prisoner or another person at a corrective services facility.'
- Subsection 271B(8)(c) should be deleted.
- Section 271C should provide that prisoners must, to the extent practicable, retain access to legal representation, health care and programs during any emergency declaration relating to a public health or other health related emergency.

Key Recommendations (cont'd):

Clause 32 Amendment of s 341 (Confidential information)

- Subsection 341(3)(g) should be deleted.
- Subsection 341(3)(j) should be deleted. In the alternative, it should be redrafted to narrow its application where sharing of confidential information is required or authorised under another law.

Amendment of the *Youth Justice Act 1992* (Qld)

- New s 301Q of the *Youth Justice Act 1992* (Qld) (**YJ Act**) should be amended to require that prior to any young person being transferred to a temporary detention centre, consideration must be given to whether it is more appropriate to grant a leave of absence under s 269 of the YJ Act, after taking into account: the factors contained in proposed new s 301H; the young person's health and wellbeing; and, the capacity of the young person to receive ordinary visitors pursuant to s 272, particularly family visitors, while in a Temporary Detention Centre.
- Where a child is transferred to a Temporary Detention Centre, the child's parent/s or guardian/s and legal representative should be advised as soon as reasonably practical of: the transfer; the reasons for the transfer; and, the proposed length of the transfer.
- All requirements contained in pt 4 of the *Youth Justice Regulation 2016* (Qld) should be maintained, to the extent reasonably practicable, while a young person is held at a Temporary Detention Centre.

Clause 4 Amendment of s 12 (Prisoner security classification)

Introduction of risk sub-categories

Clause 4 amends s 12 to remove the "maximum" security classification and classify prisoners into a security classification of either low or high. New subsection 12(1B) provides, in addition to classifying a prisoner into a low or high security classification, the chief executive may also classify the prisoner into 1 or more of the risk sub-categories prescribed by regulation.

We seek further information about the risk sub-categories and the consequences of each categorisation. Without this information, we cannot provide any substantive feedback on the introduction of risk sub-categories. It also appears the attachment of a risk sub-category may have a significant impact on a prisoner's rights within a corrective service environment. We do not consider it appropriate for such information to be contained in regulation. For clarity and transparency, the risk sub-categories should be introduced into the Act.

New subsection 12(3)

Cl 4(5) also inserts new subsection 12(3) which lists additional factors to which the chief executive may have regard when deciding a prisoner's security classification or risk sub-category. We consider the inclusion of these two additional factors unnecessary, because subsection12(2)(d) of the Act already requires the chief executive to consider the risk the prisoner poses to himself or herself, and other prisoners, staff members and the security of the corrective services facility. We suggest the new subsection 12(3) be deleted.

New subsection 12(4)

Further, cl 4(5) inserts new subsection 12(4), which provides that if a prisoner is classified into a security classification of high, the prisoner must be detained in a secure facility. New subsection 12(5), however, provides that if a prisoner is classified into a security classification of low, the prisoner may be detained in a low custody facility. We consider any prisoner classified into a security classification of low must be detained in a low custody facility to reflect their proper security classification, unless there are exceptional circumstances to justify their detention in a particular facility. Examples of what may constitute "exceptional circumstances" should be provided in the legislation; for example, proximity to family supports for the prisoner, accessibility, or where placement is otherwise prohibited under the Act.

Young people

The amendments to s 12 omit any consideration of the injustice that results when a young person is transferred to an adult prison pursuant to div 2A of the YJ Act. Young people transferred to the adult prison system are subject to an assessment process that considers these detainees as fresh admissions to the adult prison system, regardless of the rehabilitation and positive behaviour they may have engaged in whilst in the youth detention system. The difficulties arising from the failure to assess prior to transfer have received adverse judicially comment by the Childrens Court of Queensland in file decisions 330/01 and 301/01.

Since that time, amendments to the youth justice system that require automatic transfer of many eighteen year olds to adult prisons have largely removed judicial scrutiny of the process. In our view, s 12 should be further amended to stipulate that any person who is required to be transferred from a youth detention facility to an adult corrective services facility by reason of age must be classified prior to the transfer occurring, to ensure rehabilitation of young detainees is not unduly interrupted on account of the transfer.

Recommendations:

- We seek further information about the risk sub-categories and the consequences of each categorisation. Without this information, we cannot provide any substantive feedback on the introduction of risk sub-categories.
- It appears that the attachment of a risk sub-category may have a significant impact on a prisoner's rights within a corrective service environment. We do not consider it appropriate for such information to be contained in regulation. For clarity and transparency, the risk sub-categories should be introduced into the Act.
- Subsection 12(3) is redundant and should be deleted.
- Subsection 12(5) should be amended to require that a prisoner with a security classification of low must (not may) be detained in a low custody facility, unless there are exceptional circumstances that justify to justify their detention in a particular facility. Examples of what may constitute "exceptional circumstances" should be provided in the legislation; for example, proximity to family supports for the prisoner, accessibility, or where placement is otherwise prohibited under the Act.
- Section 12 should be further amended to stipulate that any person who is required to be transferred from a youth detention facility to an adult corrective services facility by reason of age must be classified prior to the transfer occurring, to ensure rehabilitation of young detainees is not unduly interrupted on account of the transfer.

Clause 5 Amendment of s 13 (Reviewing prisoner's security classification)

New subsection 13(2)

Clause 5 inserts a new subsection 13(2) which gives the chief executive the discretion to limit a review of a prisoner's security classification to reviewing only the risk sub-category for the prisoner. Given a review only of a prisoner's risk sub-category would not change the prisoner's overall security classification, the wording of this subsection is misleading, and arguably, does not amount to a review of a security classification at all. The wording of this subsection also contradicts the purpose of new subsection (2A), which mandates the review of a prisoner's security classification (not risk sub-category) in certain circumstances. While the chief executive should be given discretion to review a prisoner's security classification, as well as the prisoner's risk sub-category, at any time, there should be no discretion to limit a mandated review of the prisoner's security classification. We recommend new subsection 13(2) be deleted.

New subsection 13(2A)

We have significant concerns about new subsection 13(2A), which requires prisoners with a security classification of high to have their security classification reviewed either: (a) on request by the prisoner where no such request has been made during the previous 12 months; or, (b) where the security classification has not been reviewed in the previous three years. New subsection 13(2A) appears to be aimed simply at reducing the volume of reviews required to be done by Corrective Services, by placing the onus on the prisoner to request a security classification review and otherwise only mandating reviews every three years.

This is particularly concerning in circumstances where a prisoner is classified as a maximum security risk (which we presume will remain, in some form, as part of a high risk sub-category). Currently, a prisoner classified as a maximum security risk is entitled to a review every six months. This is so also for prisoners classified as high risk, whose security classification must be reviewed on a yearly basis.

Subsection 13(2A) will only be effective if prisoners are aware they may make a request for a security classification review, and also how to make a request, and the basis upon which a request can be made. We consider the three year timeframe to be excessive and insufficient to account for circumstances justifying an earlier review, particularly for prisoners on maximum and high risk classifications.

Prisoners should be able to make a request for a security classification review if the circumstances are such that a review is justified. For example, one member reports advising a client who was placed in the Detention Unit following an incident where the prisoner was not given his pain medication on time for two consecutive days. The prisoner became frustrated and threw a bottle of water, some of which splashed a guard. The prisoner was subsequently charged with serious assault and placed in the Detention Unit and essentially on lock down for two weeks. The prisoner was going to be re-classified as high risk. However, on transfer to two other prisons, both re-assessed him as low risk.

There will arguably be many situations in which circumstances change such that a prisoner's security classification should be the subject of review, without the need to wait for an arbitrary 12 month timeframe to pass before being entitled to request a review or a three year review.

Accordingly, we recommend subsection 13(2A)(a) be amended to provide that a prisoner may request the security classification be reviewed if a review has not been requested during the previous six months (instead of the proposed 12 months).

We also recommend subsection 13(2A)(b) be amended to retain the current 12 month period for review in relation to prisoners with a security classification of high, and recommend that a review be mandated every 6 months for prisoner's with a risk sub-category of maximum (which we presume will remain in some form via the new risk sub-categories). Further, we recommend retention of current s 13(1)(c) of the Act, which requires the chief executive to review a prisoner's security classification when the court orders a change of imprisonment term.

Recommendations:

- Subsection 13(2) should be deleted.
- Subsection 13(2A)(a) should be amended to provide that a prisoner may request the security classification be reviewed if a review has not been requested during the previous six months (instead of the proposed 12 months).
- Subsection 13(2A)(b) should be amended to retain the current 12 month period for review in relation to prisoners with a security classification of high, and mandate a review every 6 months for prisoner's with a risk sub-category of maximum (which we presume will remain in some form via the new risk sub-categories).
- We recommend retention of current s 13(1)(c) of the Act, which requires the chief executive to review a prisoner's security classification when the court orders a change of imprisonment term.

Clause 7 Amendment of s 21 (Medical examination or treatment)

We support the removal of s 21(1) and (8) to ensure prisoners are not required to submit to a medical examination or treatment. We consider there should be an express provision in s 21 providing that a prisoner does not have to submit to a medical examination or treatment by a health practitioner unless required under the Act.

Recommendation:

- There should be an express provision in s 21 providing that a prisoner does not have to submit to a medical examination or treatment by a health practitioner unless required under the Act.

Continued use of searches requiring the removal of clothing (strip searches)

We have highlighted in previous submissions to government that strip searching constitutes inhuman or degrading treatment and violates the right to bodily integrity, and should not be used unless absolutely necessary and required for good reason. Inappropriate strip search practices have been recorded in Queensland prisons.[2] It appears that even where sophisticated technology can detect drugs and metal objects without the need for prisoners to remove clothing, strip searching remains a routine practice:

> Prisoners are strip searched upon entering and leaving a prison, irrespective of the purpose. For example, a person will be strip searched upon returning from court, from hospital treatment or upon being transferred from another prison. People who are considered to be at risk of self-harm or suicide are also strip searched, a procedure that many prisoners in crisis perceive as punishment and find extremely stressful in circumstances where they are

[2] Queensland Ombudsman, *The Strip Searching of Female Prisoners: An Investigation into the Strip Search Practices at Townsville Women's Correctional Centre* (Report, September 2014).

already having difficulty coping with the prison environment. Incarcerated people are also strip searched before and after contact visits with friends and family, and before a drug test.[3]

The continued use of strip searches is not backed by empirical evidence as to their effectiveness. We consider their continued use to be unnecessary, particularly given modern technologies (such as imaging searches) present more effective and less invasive options. Accordingly, we recommend further consideration be given to removing the ability for strip searches to be conducted in the vast majority of circumstances contemplated by the Act, and particularly in situations where an imaging search may be conducted as a less intrusive measure.

Recommendation:

- Further consideration should be given to removing the ability for strip searches to be conducted in the vast majority of circumstances contemplated by the Act, and particularly in situations where an imaging search may be conducted as a less intrusive measure.

Clause 11 Amendment of s 60 (Maximum security order)

We recommend retention of the existing safeguard (in s 60(3)(a) of the Act) that requires a prisoner's security classification to be maximum, in addition to one of the three listed criteria. This is on the basis that a maximum security order usually results in a prisoner being placed in solitary confinement with minimal interaction with others, which can last up to six months, and removing the requirement that a prisoner have a maximum security classification will likely result in a broader category of prisoners at risk of solitary confinement. In this context, and given its adverse effect when used for prolonged periods of time (i.e. more than 15 consecutive days),[4] solitary confinement is only justifiable in cases 'of urgent need' and 'for limited periods'.[5]

Accordingly, we recommend retention of the need for a maximum security classification (or equivalent risk sub-category). In the absence of a maximum security classification (or equivalent risk sub-category), we consider the threshold for a maximum security order requires more than 'generally, the prisoner is a substantial threat'.

Further, we recommend retention of the six month time limit for which a maximum security order can be in place.

Recommendations:

- The need for a maximum (or equivalent risk sub-category) security classification prior to the making of a maximum security order should be retained. In the absence of a maximum (or equivalent risk sub-category) security classification, we consider the threshold for a maximum security order requires more than 'generally, the prisoner is a substantial threat'.
- Subsection 60(4) of the Act should be retained to ensure a maximum security order cannot be in place for a period longer than six months.

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[3] Caxton Legal Centre Inc, *Searching of Prisoners* (Web page, 2 September 2019) <https://queenslandlawhandbook.org.au/the-queensland-law-handbook/offenders-and-victims/prisonsand-prisoners/searching-of-prisoners/>.

[4] See United Nations Standard Minimum Rules for the Treatment of Prisoners ('the Mandela Rules') General Assembly resolution 70/175, adopted on 17 December 2015, UN doc A/Res/70/175. See also *Owen-D'Arcy v Chief Executive, Queensland Corrective Services* [2021] QSC 273.

[5] *Callanan v Attendee Z* [2014] 2 Qd R 11.

Clause 14 Amendment of s 124 (Other offences)

QLS opposes the insertion of the new offence in s 124(1). The inclusion of 'any other part of the facility prescribed by regulation' in the definition of 'restricted area' is unnecessary and will lead to prisoners being unable to have a meaningful understanding of their obligations. We are concerned the definition (as expanded by regulation) will capture situations which are not sufficiently egregious to not warrant criminal sanction (for example, where 'restricted area' is taken to mean another prisoner's cell after a direction to return to the prisoner's own cell, the kitchen etc.).

We recommend the deletion of clause 14 in its entirety. In the alternative, we recommend deletion of subsection 124(3)(b) and clarification of the definition of 'restricted area' in the Act itself (and not by way of regulation).

Recommendations:

- Clause 14 should be deleted in its entirety.
- In the alternative, we recommend deletion of subsection 124(3)(b) and clarification of the definition of 'restricted area' in the Act itself (and not by way of regulation).

Clause 19 Insertion of new ch 4, pt 3A (Electronic surveillance)

We do not support additional electronic surveillance in prisoners' cells beyond the existing legislative framework (which usually requires objective overview and approval). Such surveillance engages a number of rights under the HR Act, including: the protection against cruel, inhuman or degrading treatment (s 17(b)); the right to humane treatment when deprived of liberty (s 30(1)); and, the right to privacy (s 25(a)). Such an invasion of a prisoner's privacy and breach of other human rights must be justified on some legitimate basis, and be proportional. Similarly, the scope of use is not limited by new s 173A(3) to matters relevant to the purpose for which surveillance may be authorised. We recommend this be narrowed accordingly.

We also note the existing provisions regarding restrictions on monitoring prisoner communications with their legal representatives appear to only be applicable in relation to phone calls and electronic communications, and not in-person conversations. Section 169 of the Act only requires that in person legal visits take place 'out of the hearing, but not out of the sight' of a corrective services officer. The proposed amendments must address the issue of legal visits. In particular, electronic surveillance should not be used (or be able) to record audio of a legal visit.

Recommendations:

- Any surveillance of prisoner's cells should give due consideration to a prisoner's rights under the *Human Rights Act 2019*.
- The scope of any electronic surveillance should be expressly limited to matters relevant to the purpose for which surveillance may be authorised.
- New s 173A must address the issue of legal visits. Electronic surveillance should not, under any circumstances, be used (or be able) to record audio of a legal visit.

Clause 20 Replacement of ch 4, pt 5 (Scanning searches)

Proposed new s 175A sets out the common search practices currently used in relation to general prison visitors. Most of these practices are not currently used in relation to legal practitioners undertaking legal visits. Legal practitioners are subject to significant character assessments and are required to maintain ongoing standards of behaviour as officers of the court and members of professional legal bodies. We consider most of the practices set out in proposed new s 175A to be highly inappropriate for use in relation to legal practitioners. We recommend appropriate policies be put into place across all corrective facilities to ensure current procedures remain in place for legal practitioners when attending prisons as their place of work.

Recommendation:

- Appropriate policies should be put in place across all corrective services facilities to ensure current search procedures remain in place for legal practitioners when attending prisons as their place of work.

Clause 28 Insertion of new ch 6, pt 2, div 3 (Declaration of emergency)

New section 271B Declaration of emergency

We consider the existing 3 day emergency period should be retained in relation to all emergencies. However, if the different periods are retained for different emergencies, we recommend subsection 271B(2)(3) be amended to provide 'the chief executive is satisfied the public health emergency poses an imminent risk to the health or safety of a prisoner or another person at a corrective services facility.' We also recommend subsection 271B(8)(c) be deleted.

New section 271C Additional powers of chief executive during declared emergency

We also recommend express provision be made in the Act to mandate that prisoners must, to the extent practicable, retain access to legal representation, health care and programs during any emergency declaration relating to a public health or other health related emergency.

Recommendations:

- Section 271B(2)(3) should be amended to provide 'the chief executive is satisfied the public health emergency poses an imminent risk to the health or safety of a prisoner or another person at a corrective services facility.'
- Section 271B(8)(c) should be deleted.
- Section 271C should provide that prisoners must, to the extent practicable, retain access to legal representation, health care and programs during any emergency declaration relating to a public health or other health related emergency.

Clause 32 Amendment of s 341 (Confidential information)

We do not support the ability for an informed person to share confidential information about a prisoner with a health practitioner. The sharing of such information should only be allowed where permission is granted by the prisoner to which the confidential information relates. Accordingly, we recommend new subsection 341(3)(g) be deleted.

We also do not support the inclusion of new subsection 341(3)(j). Sharing of confidential information should only be allowed where required or authorised under another law. We recommend this subsection be deleted. In the alternative, we recommend the subsection be redrafted to significantly narrow its application.

Recommendations:

- Subsection 341(3)(g) should be deleted.
- Subsection 341(3)(j) should be deleted. In the alternative, it should be redrafted to narrow its application where sharing of confidential information is required or authorised under another law.

Amendment of the *Youth Justice Act 1992*

Clause 48 of the Bill inserts a new pt 9A into the YJ Act, relating to provisions for declared emergencies and disasters. These provisions will be invoked in circumstances where a declared emergency affects children in detention, who may be as young as 10 years old and who, by virtue of their age, are likely to be highly anxious and distressed.

While there is always a discretion for the chief executive to grant a leave of absence, we are concerned this option may be overlooked in circumstances where a declared emergency is in effect, unless specific consideration of this option is required under the YJ Act. Accordingly, we recommend new s 301Q be amended to require that prior to any young person being transferred to a temporary detention centre, consideration must be given to whether it is more appropriate to grant a leave of absence under s 269 of the YJ Act, after taking into account:

- the factors contained in proposed new s 301H;
- the young person's health and wellbeing; and,
- the capacity of the young person to receive ordinary visitors pursuant to s 272, particularly family visitors, while in a Temporary Detention Centre.

Further, where a child is transferred to a Temporary Detention Centre, the child's parent/s or guardian/s should be required to be advised as soon as reasonably practical of:

- the transfer;
- the reasons for the transfer; and,
- the proposed length of the transfer.

This information should also be provided to the young person's legal representative if the young person is on remand.

Finally, we consider all requirements contained in pt 4 of the *Youth Justice Regulation 2016* (Qld) should be maintained, to the extent reasonably practicable, while a young person is held at a Temporary Detention Centre.

Recommendations:

- New s 301Q of the YJ Act should be amended to require that prior to any young person being transferred to a temporary detention centre, consideration must be given to whether it is more appropriate to grant a leave of absence under s 269 of the YJ Act, after taking into account: the factors contained in proposed new s 301H; the young person's health and wellbeing; and, the capacity of the young person to receive ordinary visitors pursuant to s 272, particularly family visitors, while in a Temporary Detention Centre.

Recommendations (cont'd):

- Where a child is transferred to a Temporary Detention Centre, the child's parent/s or guardian/s and legal representative should be advised as soon as reasonably practical of: the transfer; the reasons for the transfer; and, the proposed length of the transfer.
- All requirements contained in pt 4 of the *Youth Justice Regulation 2016* (Qld) should be maintained, to the extent reasonably practicable, while a young person is held at a Temporary Detention Centre.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [redacted]

Yours faithfully

[redacted]

Kara Thomson
President