

Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022

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Mr Rob Hansen
Committee Secretary
Education, Employment and Training Committee
Parliament House
George Street
BRISBANE QLD 4000

Via email: eeetc@parliament.qld.gov.au

Dear Mr Hansen

Thank you for the invitation to provide a submission to the Education, Employment and Training Committee's examination of the Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022 (the Bill).

I would like it noted that the Office of the Public Guardian (OPG) was not consulted on the proposed amendments to the *Youth Justice Act 1992* (YJA) or the *Public Guardian Act 2014* (PGA) included in the Bill. This is concerning given the proposed amendments significantly impact OPG's community visitor program by expanding our legislative remit to include temporary detention centres. OPG plays important oversight role in independently monitoring the standard of care provided to children and young people in Queensland's youth detention centres, and any expansion of our functions must be a consideration when proposing changes to our overarching legislation.

OPG acknowledges the need to introduce measures to enable continuity of services in the event of an emergency or disaster that could adversely affect the operation of a detention centre. However, we do wish to raise some issues for further consideration, as detailed below.

Section 301M Revoking declaration—more suitable place to be temporary detention centre

OPG is concerned at the potential under section 301M for children and young people in detention to be relocated multiple times in the event another place is found more suitable to be a temporary detention centre. Children and young people in detention have often experienced trauma in their upbringing which is exacerbated by their experience in detention, which constitutes another upheaval to their lives. While I acknowledge the need for contingency measures to be in place during an emergency or disaster, I am concerned about the potential impact on vulnerable children and young people being relocated multiple times during a disruptive emergency event. I would anticipate that careful consideration would be given before revoking a declaration under section 301M and relocating children and young people to another temporary detention centre. Consideration should also be given to the continuity of services at any new location, including the capacity for community visitors to perform their critical oversight role and support children and young people in detention. This includes consideration of how all other essential services would operate in the new

environment, and what role OPG would play in overseeing those services, to ensure that the temporary detention centre could operate as a normal detention centre to the greatest extent practicable. OPG notes these concerns are also applicable to section 310O, which provides a similar mechanism for temporary detention centres declared by regulation under section 301N.

Scope of the definition of declared emergency

OPG is concerned the definition of *declared emergency* in section 301B of the Bill, which includes an emergency situation declared to exist under the *Public Safety Preservation Act 1986* (PSPA), may be too broad.

The PSPA Schedule defines an *emergency situation* to mean (emphasis added):

- (a) any explosion or fire; or
- (b) any oil or chemical spill; or
- (c) any escape of gas, radioactive material or flammable or combustible liquids; or
- (d) any accident involving an aircraft, or a train, vessel or vehicle; or
- (e) any incident involving a bomb or other explosive or a firearm or other weapon; or
- (f) any impact of a naturally occurring event such as a flood or a landslide; or
- (g) any other accident or incident;
that causes or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment, and includes a situation arising from any report in respect of any of the matters referred to in paragraphs (a) to (g) that if proved to be correct would cause or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment.

The application of the underlined definition may result in a lower threshold than the other types of emergencies defined in the PSPA and the Bill. OPG is concerned that this limb of the definition could be invoked inappropriately to manage current issues within the detention centres which should not constitute an emergency under the Bill, such as bed capacity and staffing shortages.

Operational considerations

OPG holds the following operational concerns, which are not matters for the Bill itself but should be addressed through its implementation. These concerns relate to the safety, wellbeing and human rights of the children and young people in detention and any stakeholders who interact with detention centres, including community visitors:

- What alternative facilities are being contemplated for potential use as a temporary detention centre if required. OPG is concerned about the use of facilities which are capable of providing a secure environment but are otherwise inappropriate for children and young people. For example, OPG would hold grave concerns if there was potential for a corrective services facility to be used as a temporary detention centre.
- Whether the age and gender of children and young people will be taken into consideration when identifying a suitable temporary detention centre. These factors greatly impact the appropriateness of an alternative facility for individual children and young people.
- Whether a temporary detention centre could be used indefinitely should a disaster-affected detention centre never be restored, which could result in permanently substandard levels of services and supports to children and young people.
- What strategies will be in place to allow ongoing access for children and young people to oversight bodies, including:

- The provision and completion of relevant induction and training required to enable community visitors to attend temporary youth detention centres, noting the risk of potential time lag in the availability and completion of training and community visitors accessing these visitable sites to engage with children and young people.
- As a mitigating strategy for community visitor safety, consideration of a standard dual visiting framework for these environments.
- Access to all currently available numbers on the Arunta phone system, including OPG and the Queensland Ombudsman.
- Alignment of VideoLink and other technology processes and facilities with OPG practice when detention centres are inaccessible, such as during COVID-19 outbreaks, other public health directives, or the logistics around a geographical location of a temporary detention centre.

Given many of these concerns relate to implementation of the Bill, it is critical that Youth Justice collaborate with key stakeholders including OPG to develop the policy and practice that will underpin the exercise of the emergency response measures, particularly the business continuity planning.

I am optimistic that in finalising any legislation, the Queensland Government will put appropriate safeguards in place to ensure the safety, wellbeing and human rights of children and young people in detention are not compromised in the event of a disaster or emergency.

I trust this information is of assistance. Should you require further information, please contact Ms Kelly Unsworth, A/Manager, Strategic Services, OPG, by email at [REDACTED] or by phone on [REDACTED].

Yours sincerely



Nicholas Dwyer
Deputy Public Guardian