



Submission to

Legal Affairs and Safety Committee

Inspector of Detention Services Bill 2021

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submission

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Introduction

The Queensland Nurses and Midwives' Union (QNMU) thanks the Legal Affairs and Safety Committee (the Committee) for the opportunity to comment on the *Inspector of Detention Services Bill 2021* (the bill).

Nursing and midwifery is the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNMU is the principal health union in Queensland covering all classifications of workers that make up the nursing and midwifery workforce including registered nurses (RN), registered midwives, enrolled nurses (EN) and assistants in nursing (AIN) and students who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 65,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses and midwives in Queensland are members of the QNMU. As the Queensland state branch of the Australian Nursing and Midwifery Federation, the QNMU is the peak professional body for nurses and midwives in Queensland.

The QNMU supports the need for appropriate, independent, and transparent oversight across places of detention in Queensland and therefore welcomes the introduction of the *Inspector of Detention Services Bill 2021*. We have provided feedback to a number of the reviews into the Queensland criminal justice system which informed the bill including a submission to the Crime and Corruption Commission on *Taskforce Flaxton: An examination of corruption and corruption risks in Queensland Corrective Services Facilities* (Taskforce Flaxton) and to the Department of Justice and Attorney-General on the *Consultation on the proposed Inspector of Detention Services*.

Our submission responds to specific aspects of the bill, and is organised under these headings:

- Mandatory inspections;
- Reporting;
- Cultural safety;
- Relationship development with Office for Prisoner Health and Wellbeing;
- Health care facilities.

Recommendations

The QNMU recommends the following changes to the bill:

- Inspections of prisons be more frequent than at least every five years;
- Reporting undertaken by the Inspector includes compliance with the *United Nations Standard Minimum Rules for the Treatment of Prisoners*;
- A timeframe that stipulates when the reports are to be made public;
- Service provision for health care services are included in the Inspector's report;
- 'Cultural safety' be added to s.8(2) so it would read:
 - In carrying out a review or inspection mentioned in subsection (1)(a), (b) or (c), the inspector must have regard to the cultural background *and cultural safety* or vulnerability of detainees to whom the review or inspection is relevant.
- Cultural safety training for detention services staff and cultural safety policies be reported on;
- The *Office for Prisoner Health and Wellbeing* be included as an entity that the Inspector enters into;
- When the statutory review is undertaken, consideration be given for the provision of health care services and whether standalone health care facilities should be established.

Mandatory inspections

The QNMU supports mandatory inspections of all detention services in Queensland. The bill s.8 (1)(c)(i-iii) states that as a minimum, the Inspector will be required to undertake an inspection of prisons at least every five years and inspections of youth detention centres at least every year.

The QNMU believes given those in prison are generally more disadvantaged, with higher health care needs than the wider Australian population, and most are in prison for short periods of time, an increase in reviews and inspections is necessary (Australian Institute of Health and Welfare, 2020). This function will allow for greater examination of the custodial service, conceivably identifying a particular issue or matter at an earlier stage rather than leaving it until a few years.

It is also the view of the QNMU that as part of the reporting undertaken by the Inspector is the need to clearly stipulate that the mandatory inspections and reporting, comply with the *United Nations Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules). The Nelson Mandela Rules are essential principles for ensuring detention services are adequate and they must be upheld and recorded as part of the review process.

Reporting

In the interests of transparency and accountability, the QNMU supports the bill s.8 (1)(e) in stipulating that the Inspector is to report directly to the Speaker of the Legislative Assembly. However, we would go one step further and suggest that a timeframe be included in the bill that stipulates when the reports are made public. We reiterate our position from our previous submission to the Department of Justice and Attorney-General where we stated that reports on each mandatory inspection of a place of detention provided by the Inspector to the Parliament are made publicly available within one month of the reports being approved by Parliament.

The QNMU also believes that part of the systemic reporting undertaken by the Inspector should include the provision of health care services. Health services for people detained in detention services must be timely, safe, evidence-based, of a high quality and comparable to health care available in the general community. How this is being achieved must be included as part of the Inspector's report.

Cultural safety

The QNMU commends the inclusion in the bill s.8(2) that a review or inspection must have regard to the cultural background or vulnerability of detainees. However, we believe that 'cultural safety' must be added to this section of the bill.

Cultural safety encompasses more than race or gender, but all aspects of a person's culture and identity, including sexuality, socioeconomic status, or trauma history. It is determined by the person it is referring to, and what is considered culturally safe for one person may not be the case for another.

Cultural safety is about creating an environment that is safe for Indigenous and minoritised ethnic groups. This is particularly relevant for detention services as the number of Indigenous detainees continues to grow with Indigenous adults 12 times more likely than non-Indigenous persons to be in prison (Australian Bureau of Statistics, 2021 & Queensland Government, 2020). Cultural safety in detention services is critical to improving Indigenous detainees' health and mental health throughout their detainment and release (Halacas & Adams, 2015).

Given the importance of cultural safety at both an individual level and organisational level, the QNMU suggests that cultural safety training be delivered to detention services staff and be included in the review and reporting undertaken by the Inspector. Adherence to cultural safety policies should also be included in the review and reporting.

Relationship development with Office for Prisoner Health and Wellbeing

As stated in our previous submission to the Department of Justice and Attorney-General, we believe that a close working relationship should be established with the *Office for Prisoner Health and Wellbeing* (OPHW). OPHW was established in response to the *Offender Health Services Review* in 2018 and provides statewide leadership and is a coordination point for Queensland Health-provided primary health care services for people in Queensland Corrective Services custody (Queensland Government, 2021). Given the remit of the OPHW we strongly believe that guiding principles for a working relationship with OPHW be developed and implemented by the Inspector.

Health care facilities

In our submission to the Crime and Corruption Commission on *Taskforce Flaxton* in April 2018, we recommended that the Queensland Government allocate funding for purpose-built offender health facilities. The QNMU continues to advocate for fit-for-purpose health care facilities to accommodate and treat detainees including specific groups such as aged detainees, those with a disability, mental health diagnosis and pregnant women.

Research shows that people in prison are generally more disadvantaged, with higher health care needs than the wider Australian population. Of the prison entrants surveyed in 2018:

- 2 in 5 (40%) reported having been told they had a mental health condition diagnosed in their lifetime;
- Chronic diseases:
 - 22% reported having ever been diagnosed with asthma;
 - 7% reported having ever been diagnosed with arthritis;
 - 7% reported having ever been diagnosed with cardiovascular diseases;
 - 6% reported having ever been diagnosed with diabetes; and
- 75% current tobacco smokers (Australian Institute of Health and Welfare, 2020).

These statistics highlight how important health services are for those living in a detention facility. We suggest that as part of the legislative review that will be undertaken within five years of the legislation being operable, that consideration be given for the provision of health care services and whether standalone health care facilities should be established.

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