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29th May 2026

Mr Anthony Reilly
Queensland Ombudsman and
Inspector of Detention Services
Office of the Qld Ombudsman
GPO Box 3314
Brisbane Qld 4001

By email: inspector@ombudsman.qld.gov.au

Dear Mr Reilly (Anthony),

Re: Draft Inspection Standards for Queensland Watch-houses

Thank you for the opportunity to provide comments on the draft *Inspection Standards for Queensland Watch-Houses* (**Draft Standards**) and the *Guide to Assessing the Inspection Standards for Queensland Watch-Houses* (**Guide**). In this submission, we have outlined our comments on the Draft Standards and the Guide based on our review.

Preliminary consideration: Our background to comment

The Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS), is a community-based public benevolent organisation, established to provide professional and culturally competent legal services for Aboriginal and Torres Strait Islander peoples across Queensland. The founding organisation was established in 1973. We now have 25 offices strategically located across the State. Our Vision is to be the leader of innovative and professional legal services. Our Mission is to deliver quality legal assistance services, community legal education, and early intervention and prevention initiatives which uphold and advance the legal and human rights of Aboriginal and Torres Strait Islander peoples.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout Queensland. Whilst our primary role is to provide criminal, civil and family law representation, we are also funded by the Commonwealth to perform a State-wide role in the key areas of Community Legal Education, and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). Our submission is informed by over five decades of legal practise at the coalface of the justice arena and we, therefore, believe we are well placed to provide meaningful comment, not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

Comments on the Draft Standards

Principles

As a general comment, the Principles in the Draft Standards are very high-level. Perhaps this is intentional, given they are Principles, however, some extend into what feels like aspirational in language without sufficient depth. Further, the Guide, as it is currently drafted, does not contain any extrapolation on how the Principles are to be interpreted. In our view, the Principles should be more precise in language and contain sufficient detail so that they can be applied more effectively. Below we have commented on particular Principles that we considered were particularly noteworthy.

All detainees are treated with respect for their inherent dignity and value as human beings.

This Principle perhaps needs to be more explicit with respect to what is meant by 'inherent dignity'. For example, dignity, in practical terms, might mean incontinence pads for the elderly and those with disability and menstrual products for women and adolescent girls.

Detention in a watch-house should be for the minimum time possible. Watch-houses are not designed to hold detainees for extended periods of time and are not appropriate places for children to be housed.

The use of the term 'housed' in this Principle is not appropriate in our respectful submission, and should be replaced with 'detained'.

Detainees identified as victims of torture or other cruel, inhuman or degrading treatment or punishment are supported to address their specific needs and seek redress if they wish to do so.

This Principle needs to be more explicit with respect to the following:

- how detainees are to be supported to address their specific needs; and
- against whom detainees will be supported to seek redress (we assume this would include Queensland Police Service).

Additionally, we feel that it would be beneficial to include in this Principle, or the Guide, examples of detainee victims of torture or other cruel, inhuman or degrading treatment or punishment, such as, rape and sexual assault victims.

Detainees are not discriminated against on the grounds of race, colour, gender, gender identity, intersex status, sexuality, disability, language, religion, political opinion, national or social origin, property, birth or any other status.

Discrimination on these grounds is unlawful under the existing discrimination law framework along with relevant rights enshrined under the *Human Rights Act 2019* and yet, despite this, we have observed that discriminatory conduct continues to occur in watch houses throughout the State. In our view, the Draft Standards need to better reflect the need for stronger oversight, accountability and complaint mechanisms for individuals in relation to this conduct.

Detainees' individual needs are catered for without discrimination, with particular focus on the most vulnerable cohorts of the population.

This Principle requires more detail. Specifically, we are unclear as to how the detainees' individual needs are to be catered for. We feel it would be beneficial to have such made explicit.

With respect to the particular focus on the most vulnerable cohorts of the population, we strongly recommend that examples be included, for example, with reference to Aboriginal and Torres Strait Islander persons, children, adults and children with disability, those with literacy challenges, etc.

On the matter of literacy, we have often observed detainees with literacy challenges, or detainees that are illiterate, getting stuck in a system that is designed for the literate. Their challenges mean that they need assistance in completing forms. It can be very difficult for them to obtain this assistance even when requested and for some,

help never comes. It is very important that adjustments are made to address these needs.

Given the overrepresentation of Aboriginal and Torres Strait Islander people, watchhouses should have a culturally appropriate operating philosophy and be oriented to understanding and being responsive to the needs of Aboriginal and Torres Strait Islander people.

This Principle is particularly high-level and could be construed as merely being 'aspirational'. In particular, there needs to be clarity on what is meant by a 'culturally appropriate operating philosophy'. The Draft Standards should expressly state how this Principle would be applied and how compliance is to be measured. Some examples of what could be included is that all Aboriginal and Torres Strait Islander detainees will have access to cultural liaison officers, Murri Watch, Elders, etc.

Standards

Reception

1. Detainees are safely transferred between police custody and watch-houses.

Standard 1, when read with the Guide, would benefit from more detail as to what constitutes 'safely transferred'.

The Guide states 'Transport arrangements have regard for the vulnerability, care and wellbeing of the detainee' as one of the 'Indicators' for Standard 1. We are aware of instances of detainees not being given access to a toilet to relieve themselves while being transferred in the back of vans and detainees having to sit in other people's urine whilst being transported. We are also aware of concerns relating to overheating vans in hot weather and a lack of access to water. This is particularly a concern in rural and remote communities.

The Draft Standards or Guide should explicitly require, for example, that detainees being transported are given access to toilet breaks at certain specified times/intervals, and that there is to be consideration as to climatic conditions whilst the detainee is being transported in the vehicle, with water being accessible to the detainee.

In our view, prison vans should be installed with CCTV cameras to ensure the safety of prisoners. The CCTV footage could potentially be used as an 'Evidence Source' against this Standard in the Guide.

2. Authorisation for the detainee's custody is obtained and is explained to the detainee.

Standard 2 and the Guide are not entirely congruent.

Firstly, Standard 2 refers to 'authorisation for the detainee's custody'. We assume that this refers to QPS' arrest documentation that would record the grounds for detaining the person, however, that is not made explicit. Secondly, whilst Standard 2 merely refers to 'authorisation' being 'obtained' and 'explained to the detainee', the Guide includes a number of 'Indicators' for this standard which are unrelated to this, for example:

- *Alternatives to custody are considered for children and vulnerable detainees.*
- *The processing of detainees into the watch-house occurs in a confidential manner.*
- *Watch-house staff are supported to identify detainees with known vulnerabilities and have access to specialist advice.*

The above indicators, whilst very important, feel out of place with Standard 2 as titled. We recommend that consideration be given to perhaps broadening the name of Standard 2 or adding additional Standards to encapsulate the above matters.

4. Detainees are assessed and managed for their urgent needs and risks.

In our view, Standard 4 should extend to humane and safe transfer of detainees between a watch house and medical facilities to attend to urgent health needs/risks.

6. Detainees are examined and assessed by a qualified health practitioner on arrival at a watch-house. Immediate mental and physical health care needs are met.

In our view, there needs to be further clarification either in Standard 6 itself, or the Guide, that clearly specifies what a 'qualified health practitioner' means for the purposes of Standard 6, i.e., what health practitioners fall under this umbrella.

Additionally, one of the 'Indicators' against Standard 6 in the Guide states: 'Medication prescribed in the community is confirmed and continues to be issued in the watch-house'. This Indicator should be amended to clarify what is meant by 'confirmed'.

Duty of Care

10. The need for detainees to remain in custody is reviewed and reasons documented.

Standard 10 does not extrapolate on how often a detainee's need to remain in custody is to be reviewed and reasons documented. The Guide, in relation to this Standard, appears to contemplate one review. We recommend that the Guide specify that

reviews are to be undertaken at regular intervals, for example every 72hrs for adults and more regularly for children. We note that, according to the daily watch house lists prepared by Youth Justice and circulated to us, there have been recent instances where children have been detained in watch houses for up to 7 consecutive days. Detaining children in watch houses for extended periods of time is something that we would expect the Standards to take a strong stance on.

13. Detainees identified as being at risk of suicide or self-harm are safely and respectfully managed.

We note that the Guide in relation to Standard 13 lists the following as 'Indicators':

- *Detainees identified as being at risk of self-harm or suicide are housed in appropriate cells and subject to observation at identified intervals.*
- *Staff know that Aboriginal detainees and Torres Strait Islander detainees are at higher risk of harm while in custody. Additional measures are implemented to ensure their safety and wellbeing both while in custody and on release.*

In our view, the Guide should also note that separating a distressed detainee does not always promote safe management of the detainee and this might especially be the case for Aboriginal or Torres Strait Islander detainees. Separation can sometimes be an additional stressor.

15. Cell placement considers the detainee's needs including gender, age and cultural considerations, and the management of any known disabilities and risks. Cell placement decisions that result in detainees sharing a cell are documented.

The Guide for Standard 15 should also include that:

- sexual assault victims should not be sharing a cell with other cellmates that have a history relating to sex offences; and
- children with disability that are placed in cells with other detainees must be supervised at shorter intervals to lessen the risk of the child being exposed to harm by other cellmates.

18. Watch-houses have effective, transparent and confidential complaints processes in place for prisoners and staff.

We recommend that the 'Indicator' in the Guide in relation to Standard 18 which currently states, 'Complaints made by people in custody are recorded and analysed to improve custodial policies and procedures' be amended to read 'Complaints made by

people in custody are recorded and analysed to improve custodial policies and procedures and identify systemic issues'.

Daily Life

24. Watch-house infrastructure is safe, fit for purpose and maintained to a high standard.

We appreciate that the Guide in relation to Standard 24 contains a fair amount of detail on watch-house infrastructure, much of which appears to be in connection with relevant United Nations human rights instruments.

We also draw your attention to the following which we consider are not adequately captured in the Guide:

- children must be kept separate from adults and detained in a separate institution or separate part thereof in an institution that holds adults (Rule 13.4, Beijing Rules);
- female and male inmates must be detained separately (Rule 11(a), Nelson Mandela Rules);
- untried children are to be kept separate from convicted prisoners (Rule 11(b), Nelson Mandela Rules);
- accommodation must meet the requirements of health with due regard to climatic conditions and cubic content of air, minimum floor space, lighting, heating and ventilation (Rule 13, Nelson Mandela Rules);
- there are windows that are large enough to enable the child to read or work by natural light and constructed such that the windows can allow fresh air (regardless of whether there is artificial ventilation) (Rule 14, Nelson Mandela Rules);
- adequate bathing and shower installations are to be provided and children should be able to shower, at minimum, once a week in a temperate climate (Rule 16, Nelson Mandela Rules);
- the custodial environment must be properly maintained and "kept scrupulously clean at all times" (Rule 17, Nelson Mandela Rules);
- remedial, moral, spiritual, social and health and sports-based assistance that is appropriate should be provided to the child in line with the individual treatment needs of the child (Rule 4, Nelson Mandela Rules).

33. All detainees have access to meaningful activities that are also age appropriate.

Further detail is required in Standard 33 or the Guide which specifies the types of activities being referred to (examples) and who is responsible for providing these activities (e.g., we assume this to be Youth Justice for juveniles).

Release

42. Detainees discharged to liberty or bail are supported to understand any relevant conditions associated with their release.

The Guide for Standard 42 lists 'Release arrangements are explained to detainees in a way they can understand prior to the discharge' as one of the 'Indicators' for this standard. We recommend that the Guide also capture that special consideration should be given to detainees who have a disability, cognitive impairment, literacy challenges or illiteracy. For example, any relevant bail undertakings, domestic violence orders and other relevant documents should be read to relevant detainees (with interpreter support if required) and they should be provided with a copy of those documents.

44. Legislation, policies and practices respect and promote the cultural rights of Aboriginal detainees and Torres Strait Islander detainees. Aboriginal detainees and Torres Strait Islander detainees are supported to exercise cultural rights and are protected from discrimination and harm.

The Guide for Standard 44 needs further detail and should expressly state that Aboriginal and Torres Strait Islander detainees are to be connected with local place-based community-controlled support services, culturally safe health care and Elders on a regular basis.

Leadership and governance

47. Watch-house custody is considered as part of corporate performance management and reporting.

The Guide to Standard 47 lists 'Systems are put in place to ensure watch-house policies, processes and practices are contemporary, evidence- based and support the humane detention of people' as one of the 'Indicators' for this standard. The Guide needs to be more specific as to what is meant by 'systems are put in place in this context'.

48. The Queensland Police Service collaborates with partner agencies and organisations to enhance custody arrangements. Collaboration with Aboriginal and Torres Strait Islander community leaders and organisations is prioritized.

In our view, the last statement of Standard 48 should read 'Collaboration with Aboriginal and Torres Strait Islander community leaders, organisations and legal services is prioritised'.

Other comments

- The 'Evidence Sources' column in the Guide should also include reference to community-controlled organisations as well as Aboriginal and Torres Strait Islander legal services wherever possible and preferably for each item in the Draft Standards. These frontline services will be able to fill in the gaps that perhaps speaking with watch-house staff and detainees might leave, noting that, due to the dynamic nature of custody in a watch-house, those in the inspection team might not get the 'full story' of what has been occurring at the watch-house.
- The Draft Standards and the guide appear to heavily rely on self-identification of disabilities and known diagnoses. It does not sufficiently capture undiagnosed disabilities and 'invisible' disabilities, such as acquired brain injuries and other cognitive impairments, foetal alcohol spectrum disorder (FASD) and undiagnosed neurodivergence.

Thank you for the opportunity to review the Draft Standards. We'd be happy to respond further should any additional questions arise.

Yours faithfully,

Shane Duffy
Chief Executive Officer