

# COMMUNITY LEGAL CENTRES TASMANIA

17 September 2021

Department of Justice  
Office of the Secretary  
GPO Box 825  
Hobart TAS 7001  
attn: Brooke Craven

via email: [haveyoursay@justice.ts.gov.au](mailto:haveyoursay@justice.ts.gov.au)

Dear Brooke,  
**Re: *OPCAT Implementation Bill 2021***

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Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to respond to the *OPCAT Implementation Bill 2021*.<sup>1</sup> It is our understanding that Tasmania is the first Australian State to engage in public consultation on the OPCAT implementation legislation and is to be commended for having done so. Our submission is focused on ensuring that the national preventive mechanism is appropriately resourced as well as ensuring that groups overrepresented in places of detention are supported.

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

- ***Recruitment of Aboriginal and Torres Strait Islander persons and people with a disability***

Clause 12(4) of the Bill provides that in employing staff consideration is to be given to “whether the staff adequately represent a balance of gender, ethnic and minority groups”. We strongly believe that Aboriginal and Torres Strait Islander persons should be expressly included in this clause due to their overrepresentation in places of detention. For example, according to a 2018 Australian Law Reform Commission report, the Aboriginal and Torres Strait Islander population constitutes just 2 per cent of the Australian adult population but comprises 27 per cent of the national adult prison population.<sup>2</sup>

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<sup>1</sup> CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

<sup>2</sup> In Tasmania, Aboriginal and Torres Strait Islander persons comprise 5 per cent of the adult population but 16 per cent of the adult prison population: Australian Law Reform Commission, Pathways to Justice – Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples (ALRC Report 133). Figure 3.1. As found at <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/3-incidence/over-representation/> (Accessed 16 September 2021).

We also believe that persons with disabilities should also be expressly included in clause 12(4) of the Bill. Again, this is because of their overrepresentation within places of detention. For example, according to the Australian Institute of Health and Welfare (AIHW) people with disability make up 29 per cent of Australia's prison population, despite forming only 18 per cent of the general population.<sup>3</sup>

**Recommendation:** Express recognition that Aboriginal and Torres Strait Islander persons and people with disability are encouraged to apply.

- **Appropriate Resourcing**

It is imperative that Tasmania's national preventive mechanism is adequately resourced. This is particularly relevant given the Custodial Inspector's long-held view that his office is inadequately resourced. For example, in the most recent Annual Report the Custodial Inspector notes:<sup>4</sup>

*As I have consistently reported, having now completed a three-year cycle of inspections it is overwhelmingly apparent that additional staff are required. The inadequacy of staffing is reflected by the long delays between onsite inspections and the publication of reports, as well as the need to cancel the scheduled inspection of the Mary Hutchinson Women's Prison.*

...

*The existing staff establishment with current financial constraints is stretched to its limits and will not meet its three-year legislative timeframe for inspection of all custodial centres against all standards.*

We strongly recommend that clause 12 of the Bill should adopt a similar model to South Australia and its *OPCAT Implementation Bill 2021* which expressly provides as follows:

*Staff and resources*

*The NPM must be provided with the resources reasonably required for exercising their functions under this Schedule and the OPCAT Implementation Act 2021.*

**Recommendation:** Express recognition that the carrying out of the Tasmanian national preventive mechanism is appropriately resourced

If you have any queries, or would like to discuss our submission further, please do not hesitate to contact us.

Yours faithfully,



Benedict Bart  
Policy Officer

**Community Legal Centres Tasmania**

<sup>3</sup> Australian Institute of Health and Welfare, *The health of Australia's prisoners* (2018). As found at <https://www.aihw.gov.au/reports/prisoners/health-australia-prisoners-2018/summary> (Accessed 19 September 2021).

<sup>4</sup> Custodial Inspector Tasmania, Annual Report 2020-21 (August 2021) at 6-8. As found at <https://www.custodialinspector.tas.gov.au/inspection-reports> (Accessed 19 September 2021).