

# Custodial Inspector Amendment (OPCAT) Bill

Submission to Department of Justice, Office of  
Strategic Legislation and Policy

**11 December 2020**



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## Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.<sup>1</sup>

The ALA office is located on the land of the Gadigal of the Eora Nation.

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<sup>1</sup> [www.lawyersalliance.com.au](http://www.lawyersalliance.com.au).

## Introduction

1. The ALA welcomes the opportunity to have input, we support the bill and make the following observations.

## Observations

2. We note there is no reference to Ashley Youth Detention Centre in the Bill and we note the need for Art 21 of the OPCAT (protection for those who disclose information) to be included in the Bill.

## Recommendations

3. In respect to section 25A, we recommend an amendment to the Bill to include 'detention centres within the meaning of *the Youth Justice Act 1997*.'
4. In respect to section 25A, we recommend an amendment to the Bill to include court complexes within the definition of a 'specified facility'.
5. In respect to section 25C 'Inspections as national preventative mechanism' we recommend the section be amended to includes words to the effect that there be 'regular inspections, no less than every six months, of each specified facility'.
6. In respect to section 34A (2) (c) Publication of information, we recommend that the section be amended to state 'the person to whom the information relates consents, *in writing*, to the release of the information'.
7. Noting Art. 21, 1 of the Optional Protocol to the Convention Against Torture which states; 'No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way,' we recommend the bill should be amended to ensure there is a legislative reflection of this Article.

## Conclusion

8. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the Bill and as noted above, we broadly support it. We are of the view that key omissions concerning Ashley Youth Detention Centre and protection for whistle blowers should be addressed in the Bill.



**Greg Barns SC**

**On behalf of the Australian Lawyers Alliance, Tasmanian Branch**