COMMUNITY SAFETY AND LEGAL AFFAIRS COMMITTEE

Members present:
Mr PS Russo MP—Chair
Mr MA Boothman MP (virtual)
Mr JE Hunt MP (virtual)
Mr JM Krause MP (virtual)
Mr RC Skelton MP (virtual)

Staff present:
Ms M Westcott—Committee Secretary
Mr R Pelenyi—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE CORRECTIVE SERVICES (PROMOTING SAFETY) AND OTHER LEGISLATION AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Friday, 22 March 2024

Brisbane

FRIDAY, 22 MARCH 2024

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The committee met at 12.34 pm.

CHAIR: Good afternoon. I declare open the public briefing for the committee's inquiry into Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024. My name is Peter Russo. I am the member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share.

With me here today are: Mark Boothman, the deputy chair and member for Theodore, via videoconference; I think Stephen Andrew is attempting to join us via phone; Jon Krause, the member for Scenic Rim, via videoconference; Jason Hunt, the member for Caloundra, via videoconference; and Rob Skelton, the member for Nicklin, via videoconference. He is substituting today for Jonty Bush, the member for Cooper.

The purpose of today's briefing is to assist the committee with its inquiry. This briefing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in proceedings. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. I remind committee members that departmental officers are here to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

These proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone present to turn your mobile phones either off or to silent mode.

ALSBURY, Mr Paul, Assistant Commissioner, Policy and Legal Command, Queensland Corrective Services

FERGUSON, Ms Helen, Acting Director, Legislation Group, Queensland Corrective Services

FLEMING, Mr Darryll, Commander, State Corrections Operations Centre, Queensland Corrective Services

HYDE, Ms Sarah, Assistant Commissioner, Specialist Operations, Queensland Corrective Services

CHAIR: I now invite you to brief the committee, after which committee members will have some questions for you.

Ms Hyde: Good afternoon, Chair and members of the Community Safety and Legal Affairs Committee. Thank you for the opportunity to address the committee in relation to the Corrective Services (Promoting Safety) and Other Legislation Amendment Bill. I would firstly like to acknowledge the traditional owners of the land on which we meet today. I pay my respects to elders past, present and emerging and their connection to the lands, winds and waters. I also acknowledge and pay my respects to all First Nations people joining us today.

Today I will provide the committee with an overview of the amendments in the bill and the policy objectives intended to be achieved. My colleagues are here to assist in answering any questions the committee may have about the bill. I would like to start by thanking those who took the time to make a submission to the committee on the bill. QCS has considered these and hopes the departmental responses were of assistance to the submitters. My colleagues and I have also had time to review stakeholder feedback provided to the committee at the public hearing on Monday. I will provide additional context on the issues raised by stakeholders on Monday before providing a short overview of the other amendments in the bill.

Firstly, I would like to discuss amendments in the bill which will support victims of crime engaging with the correctional system. The bill delivers a suite of amendments to enhance the QCS Victims Register. The register in its current form has been in place since the introduction of the act in 2006 but has been amended over time. The amendments will broadly streamline the registration process, extend eligibility criteria, increase flexibility for how a person can engage with the register and clarify what information is to be provided to an eligible person. I note that a few specific matters in relation to the amendments to support victims have been raised by stakeholders.

The bill provides two additional pathways to registration with the QCS Victims Register. The first will allow agencies to directly refer an individual to register without requiring the application. This could include a person transferring from a register in another jurisdiction. The second will allow QCS to register the person without an application where appropriate such as where QCS already has all of the information, perhaps from a previous application. These new pathways aim to reduce the trauma that can occur for victims when they are required to redisclose information if that information can be sourced elsewhere.

I would also like to clarify the current provisions around victim involvement in the parole process and how the bill will work to support that. Eligible persons registered with the QCS Victims Register are entitled to receive certain information about a prisoner. QCS must notify an eligible person when the prisoner they are registered against makes a parole application. This already is provided for in section 188 of the act. QCS also must notify an eligible person of a prisoner's release or eligible dates as soon as practicable after QCS becomes aware of those dates. QCS may also, as appropriate, disclose to an eligible person the results of a prisoner's parole application or other information about the prisoner. When QCS notifies an eligible person that the prisoner has applied for parole, QCS must also notify the person that they may make a written submission to the board. The eligible person may then provide a submission, and the board has regard to this information in making its decision about parole.

The bill provides a few measures which aim to empower victims further to engage in this process. The bill includes express discretion for QCS to disclose broader matters about a prisoner's parole to an eligible person, not just the results of the application. It is intended for information to support eligible persons by decreasing uncertainty around the process. This information could be about parole conditions, suspensions or cancellations so long as a disclosure is appropriate.

The bill also provides flexibility for the board to approve submissions from eligible formats that are not in writing, such as video or audio record. This is intended to ensure that illiteracy or access to a computer is not a barrier to victims to put their views forward. The bill also makes a minor amendment to require the board to consider any submission provided under section 188. While this is current practice, the bill enshrines this in legislation. The bill also requires representation of victims in the board's community membership to ensure the perspectives of victims can inform parole decisions at a broader level. In relation to information about the deportation of prisoners being provided to eligible persons, the bill expressly provides that this information can be provided where it is appropriate and known to QCS. In relation to children who are eligible to register, the bill strengthens the existing framework.

Currently a child can be registered as an eligible person if it is in their best interests to be registered. Otherwise, a parent or guardian can be registered. The bill strengthens this framework by allowing the parent or guardian to be registered in addition to the child. QCS currently works with the family when the eligible person turns 18 to register them in their own right if desired. The bill will assist this process by allowing QCS to register the person without a further application. These amendments are intended to promote the physical and mental safety and wellbeing of victims, their families and the community.

Next I will address the concerns raised by submitters regarding the amendments in the bill that aim to protect victim and intelligence information. As members would be aware, the bill introduces new section 340AA of the Corrective Services Act. This provision will allow a decision-maker to withhold certain information when giving reasons for decisions made under the Corrective Services Act. Information can be withheld if the decision-maker is satisfied that disclosure of the information could, for example, endanger a person's life or physical safety. These amendments have been developed because existing laws are not sufficient to safeguard the full scope of information which needs to be protected to ensure safe correctional decision-making.

I would like to clarify that the proposed insertion of section 340AA does not provide an automatic or blanket exclusion for the disclosure of information to a prisoner. The provision creates a discretion for the decision-maker to withhold information only if satisfied that disclosure would meet the threshold set out in the provision. This has an intentionally high threshold. If passed, the provision will apply to decisions made under the Corrective Services Act that require the decision-maker to provide an

information notice or statement of reasons. This includes parole decisions made by the board. This provision does not remove the ability for a prisoner to obtain a judicial review of the decision to withhold the information. This right will be maintained.

Where the decision-maker exercises this discretion, they must still provide the gist of the non-disclosed information. The decision to not disclose information will also require the rationale for this decision to be confidentially recorded to maintain appropriate record keeping and accountability. This is in line with the policy objective to increase confidence in decision-making processes. As such, the provisions have been developed to appropriately balance the prisoner or offender's rights to natural justice with the need to protect victims and others. It is also intended to provide a clearer legislative protection for information than the current unclear public interest immunity process which does not currently provide enough surety to victims that their information will be protected.

I will now clarify the intent of amendments to expand police powers for child sexual offenders subject to post-sentence supervision under the Dangerous Prisoners (Sexual Offenders) Act, hereafter DP(SO)A. QCS is responsible for and will remain responsible for supervising all offenders subject to a DP(SO)A supervision order. This includes offenders who are subject to both a DP(SO)A supervision order and reportable offender obligations under the Child Protection (Offender Reporting and Offender Prohibition Order) Act, hereafter CPOR act. To appropriately manage risk and reduce the likelihood of reoffending, Corrective Services officers have the power to issue reasonable directions to these offenders. However, where Corrective Services officers suspect an offender has contravened their DP(SO)A order, QCS has limited powers to verify an offender's compliance. In this instance, QCS must apply to a magistrate for a warrant under section 20 of the DP(SO)A. The expansion of police powers to CPOR act reportable offenders who are also supervised under DP(SO)A will complement QCS's case management and supervision of DP(SO)A offenders to promote community safety by enhancing the collaborative response between agencies to address contraventions. This ensures continued strength in the oversight of this cohort for the safety of the broader community.

Next I will address amendments which authorise a regulation to prescribe protections and requirements surrounding how invasive searches are conducted to accommodate diverse prisoner needs whilst ensuring the safety of everyone involved in the search. In light of the upcoming commencement of the reformed Births, Deaths and Marriages Registration Act, it is necessary to amend invasive search provisions in the Corrective Services Act. The bill removes requirements for searches—

CHAIR: Sarah, sorry to interrupt, but we have just lost a quorum because of technology, so bear with me. Hopefully we can work this out quickly. Given that that is now sorted, please continue.

Ms Hyde: The bill removes requirements for searches to be conducted by an officer or practitioner of the same sex as a prisoner and creates a head of power for more flexible protections to be prescribed in the regulation. The Corrective Services Regulation also currently contains similar gendered requirements for drug and alcohol testing involving urinalysis. As Queensland matures into a new system of gender identification, legislation and practice will need to be fluid over time, adapting to the unique needs of offenders. The current approach of legislating rigid requirements in primary legislation that cannot be easily adapted does not allow for an adequate level of flexibility for future practice. The bill creates a framework for the requirements regarding searches of prisoners to be prescribed by regulation to provide this balance. This approach provides the necessary flexibility while maintaining strong legislative protections for the prisoners and officers involved in searches. This approach to providing for protections in regulation has been informed by the approach taken in Victoria for corrections where a similar gender identification framework is in operation. The settled approach also ensures the same level of legislative protections for all prisoners without elevating one cohort over another—for example, by legislating special protections for female prisoners in the act and prescribing protections for gender diverse prisoners in the regulation or policy. The bill also ensures that there will be no gap in the protections. Commencement of these amendments to the Corrective Services Act will not occur until a replacement regulation is in place. QCS is committed to consulting with relevant stakeholders in the development of the regulation under these provisions to ensure they are fit for purpose.

I will now discuss amendments that strengthen powers to respond to abuse of prisoner communication channels. A number of reviews highlighted the need to limit prisoners misusing communication channels to cause harm such as attempts to breach a domestic violence order. The amendments in the bill strengthen mechanisms to reduce harm while still enabling prisoners to maintain family connections to support their reintegration. The bill provides the necessary powers and mechanisms to deter the behaviour from occurring in the first instance and, where it does occur and is monitored, enable limitations to be implemented. The bill provides for a range of amendments to the

existing provisions, including discretion to approve and revoke a contact where it is not appropriate or where the prisoner is likely to engage in prohibited prisoner communication. The bill provides clearer powers for QCS to establish terms and conditions for prisoner calls, including for all prisoners based on a prisoner's security classification or for individual prisoners based on their individual risk. The bill also provides clearer powers to end and suspend communications involving threats, harassment or intimidation. Through these amendments, existing safeguards are maintained for privileged communications. The provisions do not apply to prisoner communications with their lawyer.

Other amendments in the bill aim to promote the safety of Corrective Services officers, offenders and the general community. The bill makes it an offence for a person to possess a gel blaster or replica firearm on Corrective Services land. The proposed offence will create a strong deterrent for behaviour threatening the safety of frontline Corrective Services officers and members of the community. The bill also clarifies the authority for Corrective Services officers to use body worn cameras while escorting prisoners or performing other functions outside of our prisons. This will promote safety and accountability in community-facing Corrective Services functions.

The bill also contains amendments to support the independence and diversity of the Parole Board Queensland. The bill also establishes a framework for the lawful detention of prisoners from Norfolk Island who have been sentenced to imprisonment by a Norfolk Island court. Lastly, the bill includes other minor and technical amendments to support the safe delivery of Corrective Services and a range of other minor and technical amendments.

In conclusion, the amendments in the bill aim to promote the safety of all individuals and provide innovative and futureproof provisions that enable QCS to continually improve operational practice. We welcome any questions from the committee regarding the amendments in the bill. Thank you.

Mr BOOTHMAN: Turning to section 340AA, quite a few submitters have stated that that section is too broad. Even the Bar Association stated that it would be better if it was a public interest test as opposed to an absolute rule. Can I hear your opinions on that?

CHAIR: Mark, do you mind if I just interrupt you for one second?

Mr BOOTHMAN: I might turn this video off. It is not working anyway.

CHAIR: But we can see you and we can hear you.

Mr BOOTHMAN: Okay. Can you hear me through the video?

CHAIR: Yes.

Mr BOOTHMAN: We just cannot hear anything.

CHAIR: You cannot hear us?

Mr BOOTHMAN: No.

CHAIR: I might ask the secretariat to call IT to see if they can rectify this echoing. While we are sorting that out, we have authorised for this letter to be published, but I thought it would be easier if you saw the response from the Bar Association, so I will approach you and give you that.

Mr Alsbury: Yes, Chair, that would be fine.

CHAIR: Without pre-empting what Mark is going to ask—I am not trying to gazump him—they have underlined what their suggestion is. You might want to take it on notice. I do not want to put you on the spot where I expect you to respond to that immediately, because my understanding is that this would be the first time you have seen it.

Mr Alsbury: That is correct. It is the first we have seen it, although I did listen to the Bar Association's submission on Monday. I can give a general response now because, of course, a question like this was expected. Also, I note the letter from the committee to the minister that deals with this provision which we will respond to. I do thank the member for the question.

CHAIR: I am sorry to interrupt you, Paul, but I do not think Mark can hear us. I want to give him the opportunity to ask his question. I wanted you to see that but also understand that it would be unfair to expect you to comment on that on the run. I take on board the pre-emptive work you have already done. We can hear you now, Mark.

Mr BOOTHMAN: My question was to do with section 340AA. Quite a few submitters have stated that they feel it is too broad and the Bar Association of Queensland have expressed a preference for the public interest test as opposed to an absolute law. Can you comment on that?

Mr Alsbury: The provision as it is currently drafted is necessary as there is a higher threshold for non-disclosure of information on the basis of public interest. Therefore, public interest immunity may not protect the full scope of sensitive and confidential information captured by the provisions from disclosure. The provision is intended to ensure public confidence in the correctional system by

protecting victim and intelligence information from being released through a clearer legislative provision. The provisions are also important in promoting the safety and wellbeing of victims and encouraging victims to disclose the information while knowing that it will be protected. To ensure compliance with human rights and to ensure as much transparency as possible to afford the prisoner natural justice, the prisoner will still be provided with the gist of the information that is being withheld. The gist will include as much of the information as possible without jeopardising safety or security. The prisoner's ability to have a decision to withhold information judicially reviewed will also be maintained.

I would suggest that the provision as drafted is quite narrow and, importantly, the decision-maker will still be obliged to take the prisoner's human rights into account as required by the Human Rights Act. One of those rights that will be considered is the prisoner's right to a fair hearing. To that extent, there will be a balancing act of sorts.

Mr BOOTHMAN: As a follow-up question, I refer to new section 18I, particularly to do with Norfolk Island prisoners, where it does not apply to dangerous prisoners and sexual offenders. Why is that?

Ms Ferguson: The act excludes the application of the Dangerous Prisoners (Sexual Offenders) Act 2003 to Norfolk Island prisoners. There is not an equivalent Norfolk Island act in relation to that. The application of that act on Norfolk Island is a policy matter for the Commonwealth to work through. The amendment in the bill simply removes the application of that act to prisoners while they are in the custody of Queensland and detained under the Corrective Services Act.

Mr BOOTHMAN: What would that mean if an individual was caught doing a heinous crime, a sexual offence, on Norfolk Island? What would be the process then?

Ms Ferguson: The amendments in the bill simply allow for Queensland, when a prisoner is sentenced by a Norfolk Island court and not a Queensland court, to detain the prisoner on behalf of Norfolk Island. I am not aware of the intricacies of Norfolk Island sentencing laws in relation to specific offences such as what you have outlined there. That would really be a matter for the Norfolk Island court in imposing its sentence as a matter that is under the jurisdiction of Norfolk Island.

CHAIR: Basically, with our rules in relation to people who are sentenced under our legislation, there is legislation where an application can be made for the court for them to be dealt with in a certain way at the conclusion of their sentence. What we are doing here is basically assisting Norfolk Island to house a person who has to serve a term of imprisonment. All the laws that relate to how that prisoner is ultimately treated rest with the Norfolk Island jurisdiction. If they do not have a similar piece of legislation at the conclusion of his sentence he would be returned to Norfolk Island and, whatever system they have, they then deal.

Ms Ferguson: Broadly speaking, that is correct. However, I would just say that the management of the prisoner while they were in Queensland's custody would be, under these amendments, governed by our Corrective Services Act provisions. But yes, the nature of the sentence imposed by the Norfolk Island court is a matter of Norfolk Island law.

CHAIR: Jon, would you like to ask a question of the panel?

Mr KRAUSE: I would have but I did not hear the briefing because the videoconference facility was not working on my end. I had no audio and I do not think you could hear me either. I did not realise that it had commenced until about 12.50. If Mark has any further questions then he can ask, otherwise I probably have one. I want it to be noted that there was a fairly serious failing in the technology today.

CHAIR: I apologise for that. Do you want to ask your question now?

Mr KRAUSE: I heard something about the change to legislation in relation to searches and same-sex searches and that it is going to be taken out of legislation and put into regulation, something to do with the changes to the Births, Deaths and Marriages Registration Act. I want to ask whether the department could give us information about, firstly, how many prisoners may be directly related to this change on an annual basis? Also, can they give an indication of the costs associated with the change in the regulations and changed practices?

Mr Alsbury: As at 18 March 2024, there were 83 transgender prisoners in Queensland Corrective Services custody. Of course, this number fluctuates. It is also dependent on the prisoner disclosing their gender identity to Queensland Corrective Services. As for the cost—and Commander Fleming may be able to speak more to the practicalities of this—we do currently adopt a multidisciplinary approach and work with all relevant parties when we are navigating these sorts of issues within a prison environment. Although there will be changes, perhaps the changes will not be as significant practically as one would think. Commander Fleming can probably speak more to that.

Mr Fleming: May I start by acknowledging and thanking our Queensland Corrective Services staff for the good work that they do right across our centres, our regions and our headquarters. Thank you to our staff. Yes, that is correct. This bill intends to be more 'business will be different' rather than 'business as usual'. There will be, for all intents and purposes, no cost attached to the changes but a change to practice that will be absorbed within the 'business as usual' operating models.

CHAIR: Jason, do you have a question before I go back to Mark?

Mr HUNT: First of all, I want to concur wholeheartedly with Darryll's statement and thank all of the people assembled there and every screw and non-custodial officer currently on shift today for the great work that they do in our custodial environment. I do not know who to direct this question to. It goes to the question of the deputy chair. Currently, on average how many Norfolk Island prisoners flood through the Queensland Corrective Services system per year?

Mr Alsbury: I will try to get some exact numbers. There is not many; that is the short answer. It is anticipated that Queensland may receive one to two prisoners from Norfolk Island per year. That is probably the best indication. Effectively, Queensland is taking over from New South Wales. New South Wales have advised that since 2020 they have received four prisoners from Norfolk Island. As at 12 March 2024, they had one Norfolk Island prisoner in custody. The upshot of that is not very many at all.

Mr HUNT: I think Commander Fleming might be best placed to answer this, but I do not know: Darryll, you know I have done one or two searches requiring the removal of clothing over the years. Can you talk us through how it will differ operationally as opposed to what I might have been familiar with two or three years ago? I also make a point of thanking the department for the work that they have done in this space. This has been a very challenging space for a long time. I know QPS have put a lot of work into it over the years, trying to strike a balance between the rights of the individual and the safety and security needs of the centre.

Mr Fleming: Future regulation amendments will be progressed in line with the head of power created by the bill to retain the general protection for officers or health practitioners to search prisoners of the same gender and include discretion to allow a different approach where safe and appropriate. Detail of the regulation is yet to be worked through. However, the safety of prisoners being searched and staff conducting the searches is paramount. The approach for prisoner searches prescribed in corrections regulation in Victoria as well as the approaches of other portfolios in Queensland will inform this approach. To inform the development of the regulation, the QCS will also consult with relevant stakeholders including the Queensland Human Rights Commission, interested LGBTIQ+ stakeholders and staff.

Mr HUNT: Could that involve what has been discussed earlier in the hearings about operationally top-half/bottom-half searches requiring a rule?

Mr Fleming: Yes, and that may also result in a changeover of staff, so to speak, to conduct and finalise the search.

Mr HUNT: Thank you. That is very good.

CHAIR: This question may not be relevant, so forgive me, but does the prisoner who is currently in New South Wales get transferred to Queensland or does he finish his sentence down there?

Ms Ferguson: That detail is yet to be worked through; however, I do understand that prisoner may continue to finish their sentence in New South Wales.

CHAIR: If the bill is passed, once the bill is passed then the obligation will be assumed by Corrective Services in Queensland?

Ms Ferguson: Yes. The objective is for prisoners who are sentenced or detained from the commencement of the legislation to come to Queensland.

Mr BOOTHMAN: Just going back to the point that the member for Caloundra made, what types of protections are there for prison guards in terms of a transgender individual requesting a female guard? Will there be a male guard there too? What will happen in that situation for a search? My point is that I am concerned about the safety of the officer potentially having to search an individual who is requesting a person of the opposite sex.

Mr Alsbury: The detail will be worked out in the regulations, which should be drafted by the middle of the year. The prisoner will be entitled to express their preference in relation to the gender of the prison officer who searches them, but that will not determine the issue. Other issues in relation to

safety, for example, will be very relevant. Staff safety is of course a guiding consideration for developing the regulation amendments. Ensuring that while the prisoner's preference for how the search is to be conducted should be taken into account, searches will still be conducted in a way that ensures the safety of everyone involved.

Mr BOOTHMAN: Seeing that that regulation is still coming, I obviously do have a bit of a concern about that matter, that is all. The safety of all of your colleagues is obviously paramount and people do go to prison for a reason, but that is more of a statement.

Mr Alsbury: Yes. The detail, of course, will be worked through. There are lots of competing considerations, but safety will be a paramount concern.

Mr BOOTHMAN: When it comes to the monitoring of prisoners and the recording of a prisoner's data, for what period of time is that information kept? Is there a regulation that says that it is kept for six months, 12 months or two years and how is that kept? What types of security protocols are used for the system to keep that information?

Mr Alsbury: Can I just ask a clarifying question?

Mr BOOTHMAN: Yes.

Mr Alsbury: Member, are you referring to any specific sort of information?

Mr BOOTHMAN: When it comes to the recording and monitoring of personal calls under section 52B, how long is that information kept? Obviously if you keep information in perpetuity you will never have enough data storage.

Mr Alsbury: I do not think any of us at the table know the exact answer to that. I suspect it is subject to the Public Records Act and disposal schedules come under the Public Records Act. Commander Fleming may have some further information.

Mr BOOTHMAN: My point is that it would be appropriate if it were kept for the life of the prisoners while they are incarcerated, that is all.

CHAIR: There are two things that come to mind. One: is that something that Corrective Services may not, for safety and good operation of the system, want in the public arena? I am not saying that that is the case, but I just know that sometimes operational procedures are best not broadcast publicly. The second part of that really is that the monitoring system, from my understanding, is monitored to make sure that there are no nefarious activities being cultivated by prisoners in speaking to people on the outside.

Mr BOOTHMAN: My question was more to do with the fact of keeping it for a period of time—if, say, that individual is in jail for six or seven years—and to ensure the capability of storage for any parole period hearings. I am just making sure with the department that that is the case for storage of data when it comes to these types of phone calls and monitoring of personal calls.

Mr Alsbury: Yes, I am sure our policies and procedures do have regard to that. Of course, there are a number of different combinations and permutations. For example, if something becomes evidence in a defence, then it becomes an exhibit and is dealt with in a different way. I am sorry, member, but I do not have the answer to your question.

Mr BOOTHMAN: That is fine.

Mr Fleming: I may be able to provide some information about current practices for the storage and destruction of recordings made by body worn cameras. Currently, when a body worn camera is placed in a docking station, it recharges the device and automatically uploads recordings that have occurred during a shift to the evidence management system. This is an encrypted cloud-based solution. Only authorised staff have access to the evidence management system, with the system maintaining a history of the recording including who has viewed the recording and whether it has been downloaded or shared within the system. Personal information is collected, stored, used and destroyed in accordance with the information privacy principles of the Information Privacy Act. Any audio or visual records of an individual who can be identified from that recording are considered to be that individual's personal information. There are clear guidelines on activation and when this may and must occur.

With regard to secure storage of the recordings to protect them from loss, unauthorised access or any other misuse, storage of the recordings currently includes assigning in the recording with an information security classification of 'sensitive', 'protected' or lower classification with chief executive approval. Retention periods for the footage are based on these labels. This is completed by appropriately trained and delegated personnel, usually intelligence staff. Where a recording is classified as 'protected', the recording is assigned a restricted classification within the storage system to restrict access. This could include where a prisoner is partially or fully unclothed during the recording.

Mr BOOTHMAN: Thank you.

Mr Alsbury: I can provide some further information. The information I have been provided is that they are kept for three years and then archived. Being archived means that they are still a public record and still kept, so I cannot answer the question in relation to when they are ultimately disposed of.

Mr BOOTHMAN: I am happy with that. It is just making sure that there is some type of information there when they have their parole so that the Parole Board is well and truly informed of what is actually happening with that prisoner, so I am happy.

CHAIR: For the members of the committee who are still with us, I am conscious that we are coming to the end of the allocated time despite the stop-start nature with our technical difficulties. However, I am also conscious that people may have other commitments this afternoon.

Mr HUNT: QCS representatives might have seen some of the other stakeholder feedback with concerns about prison officers activating body worn cameras in public spaces, particularly QHealth spaces. I was wondering if they have a response to that and can talk us through the circumstances where an officer might be required to activate a body worn camera and why that would be necessary. My assumption is that it is highly necessary.

Mr Fleming: The bill does not generally permit activation of a device while someone is receiving health care; however, the bill enables use in a sensitive location if there is an imminent and significant risk to the life, health or safety of an individual. The definition of 'sensitive location' covers a room or other place other than a patient-waiting area where a person is being personally assessed or treated by a health practitioner or authorised mental health service. The definition excludes a patient-waiting area as this area can be unpredictable and the use of a body worn camera may be of benefit in line with the other restrictions imposed by the new provision. This provides a high threshold for activation in a sensitive location and mitigates the impact on the health care and privacy as a result of body worn cameras.

The bill prescribes that a body worn camera may only be used in a sensitive location if the corrective services officer believes there is an imminent risk to life, health or safety. This includes the activation of an audio recording. 'Sensitive location' is defined in new section 173B(9). The definition covers—

(a) a room or other place where a court, tribunal or commission established under an Act is sitting;

(b) a room or other place, other than a patient waiting area, where a person is being personally assessed or treated by a health practitioner or authorised mental health service;

(c) a building or other place that is a place of worship;

(d) a building or part of a building that is a private residence;

(e) a room or other place where a person might reasonably be expected to be engaged in—

  (i) showering, bathing or using a toilet; or

  (ii) some other activity involving a state of undress; or

  (iii) an intimate sexual activity not ordinarily done in public;

(f) a location prescribed by regulation to be a sensitive location.

CHAIR: Before I ask the panel about their time restraints, does the committee have any more questions for the panel which would require us to keep going for a little bit? I take on board the stop-start issues we have had today. Mark, do you have any further questions?

Mr BOOTHMAN: If you can hear me, no. The sound just keeps breaking up.

CHAIR: Jon, do you have any questions?

Mr KRAUSE: No.

CHAIR: Jason, do you have any questions before we wind up?

Mr HUNT: No.

CHAIR: I have one. Pride in Law raised something about the difference in gender description between the proposed legislation and the PPR.

Mr Alsbury: If I remember correctly, the representatives from Pride in Law were talking about an exemption from following the preference of the person being searched as to the gender of the person searching them. I am not quite sure about the situation in the police legislation to be honest. That will be worked through when the regulations are put together. The views of all relevant stakeholders will be taken into account.

CHAIR: Lastly, I have given you the letter from the Bar Association. Is that something that you are willing to comment on and take on notice? I am in your hands.

Mr Alsbury: I am wondering whether the committee would be agreeable to it being part of the response in relation to the letter to the minister dated 19 March.

CHAIR: We would be.

Mr Alsbury: I am not sure whether that is technically taking it on notice, but it will be included in that response.

CHAIR: No. Technically, I am not going to make you take it on notice because you have made a commitment and I am sure you will honour it. Unless the committee has any further questions, we might let these good people go about their regular business. That concludes the public briefing. Thank you very much for your attendance and for your continued correspondence with the committee about this important legislation. I would also like to thank our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I would also like to thank our hardworking secretariat. I declare this public briefing closed.

The committee adjourned at 1.34 pm.