

Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024

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29 February 2024

Committee Secretary
Community Safety and Legal Affairs Committee
Parliament House
George Street
BRISBANE QLD

By email only: CSLAC@parliament.qld.gov.au

Dear Secretary

Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024

We refer to the above inquiry.

The purpose of this letter is to convey the Office of the Information Commissioner's (**OIC**) submissions on Clause 43 of the Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024, proposing amendments to the *Corrective Services Act 2006* (Qld) (**CS Act**) which will allow the use of body-worn cameras (**BWC**) outside a correctional services facility.

About the OIC

OIC is an independent statutory body that reports to the Queensland Parliament. We have a role under each of the *Right to Information Act 2009* (**RTI Act**) and the *Information Privacy Act 2009* (**IP Act**) to both facilitate greater and easier access to government held information and assist agencies to safeguard personal information. The statutory functions of the Information Commissioner under the IP Act include commenting on issues relating to the administration of privacy in the Queensland public sector environment and identifying and commenting on legislative and administrative changes that would improve the administration of the IP Act.¹

Clause 43 – Body-worn camera used by corrective services officer outside corrective services facility

OIC understands that this amendment is intended to '*clarify the authority for corrective services officers to use body-worn cameras while in the community to promote the safety of frontline corrective services officers.*'² We also acknowledge the purpose of expanding the use of BWCs is to promote accountability, to ensure the safety and security of corrective services staff, prisoners and other individuals in community-facing corrective services settings, and to deter anti-social behaviour.³

OIC welcomes the proposed limits on the use of BWC, including that BWC:

¹ Section 135(1)(b)(v) and (vi) of the IP Act.

² Explanatory Notes, page 1.

³ Explanatory Notes, page 5.

- may only be used outside a corrective services facility in specific circumstances⁴
- may only be used in a sensitive location if there is an imminent and significant risk to the life, health or safety of an individual⁵
- cannot be used to monitor or record a prisoner communication that could not otherwise be lawfully recorded if it took place in a corrective services facility (such as a discussion with the prisoner's lawyer or the parole board)⁶
- must be issued to the officer by the chief executive;⁷ and
- cannot be hidden or disguised.⁸

OIC also supports the obligation that the administrative procedures made by the chief executive must include requirements about the use, storage and destruction of the resulting recordings.⁹ OIC would welcome the opportunity to provide comment on the development of such administrative procedures.

OIC further notes that additional safeguards apply to the use of BWC when a detention centre employee is acting in the performance of their duties under the *Youth Justice Act 1992 (Qld) (YJ Act)*. These are prescribed in section 263B of the YJ Act, and oblige the chief executive to:

- make guidelines about the use of BWCs by detention centre employees;¹⁰ and
- ensure that a child detained in a detention centre, a detention centre employee and a visitor to a detention centre are advised that sounds and images may be recorded.¹¹

The requirements in the YJ Act are more prescriptive than those in proposed section 173B(8) of the CS Act. Given the similar context, we draw these additional obligations to your attention and suggest that similar considerations might be applied to amendments proposed in Clause 43.

More generally, OIC notes that the use of BWCs poses several privacy risks to individuals, including prisoners, corrective services officers, as well as members of the public that may be captured when footage is recorded outside a correctional services facility. Further, the information generated using these technologies will include personal information, enlivening the privacy obligations in the IP Act and rendering collected information subject to the rights of access and amendment conferred by the IP Act and RTI Act.

As part of its statutory functions, OIC has produced guidelines for agencies outlining the privacy impacts and information access obligations agencies must consider when implementing or extending a camera surveillance system (including BWCs).¹² We note that a number of OIC audits have found a continued need for Queensland government agencies to improve maturity of systems, processes and practices for video surveillance, to ensure compliance with the RTI and IP Acts and good practice.¹³

⁴ Proposed section 173B(2) of the CS Act.

⁵ Proposed section 173B(3) of the CS Act.

⁶ Proposed section 173B(4) of the CS Act.

⁷ Proposed section 173B(5)(a) of the CS Act.

⁸ Proposed section 173B(5)(b) of the CS Act.

⁹ Proposed section 173B(8) of the CS Act.

¹⁰ Section 263B(1)(b) of the YJ Act.

¹¹ Section 263B(2) of the YJ Act.

¹² [Camera Surveillance and Privacy, Office of the Information Commissioner.](#)

¹³ [Camera surveillance and privacy, Office of the Information Commissioner Queensland, Report No. 2 of 2012/13 to the Queensland Legislative Assembly; Camera surveillance and privacy – follow-up review, Office of the Information Commissioner Queensland, Report No.1 of 2015-16 to the Queensland Legislative Assembly; 10 years on: Queensland government agencies' self-assessment of their compliance with the Right to Information Act 2009 \(Qld\) and the Information Privacy Act 2009 \(Qld\), Office of the Information Commissioner Queensland, Report No. 5 to the Queensland Legislative Assembly for 2018-19.](#)

For this reason, OIC recommends that any agency considering the use of surveillance devices conduct a Privacy Impact Assessment¹⁴ (**PIA**) before implementation. While the collection of personal information using these technologies may be considered necessary to ensure the safety and security of corrective services staff, prisoners and other individuals, it should be appropriately balanced so as not to intrude unreasonably into the personal affairs of those individuals. A PIA will assist to identify privacy risks and appropriate mitigation strategies. OIC considers appropriate safeguards include:

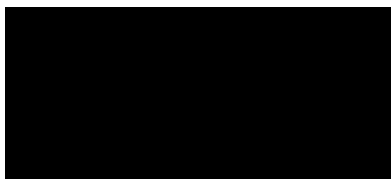
- robust operational procedures
- training; and
- auditing to prevent unauthorised access to or misuse of personal information collected through the expanded use of BWC.

The PIA should be updated at key phases throughout the lifecycle of the implementation and use of surveillance technologies, including the passing of the legislation and prior to adoption of any new surveillance technologies.

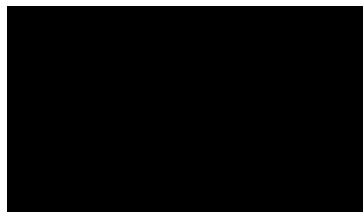
Conclusion

We welcome the opportunity to make the above submission and remain available to provide any further assistance the Committee may require.

Yours sincerely



Stephanie Winson
Acting Information Commissioner



Paxton Booth
Privacy Commissioner

¹⁴ PIAs are discussed in OIC's guideline, [Undertaking a Privacy Impact Assessment](#).