



COMMUNITY SUPPORT AND SERVICES COMMITTEE

Members present:

Mr A Tantari MP—Chair
Mr SA Bennett MP
Mr MC Berkman MP
Ms CL Lui MP
Dr MA Robinson MP
Mr RCJ Skelton MP

Staff present:

Ms L Pretty—Committee Secretary
Dr A Lilley—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE POLICE POWERS AND RESPONSIBILITIES AND OTHER LEGISLATION AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Monday, 15 April 2024

Brisbane

MONDAY, 15 APRIL 2024

The committee met at 8.45 am.

CHAIR: Good morning. I declare open this public briefing for the committee's inquiry into the Police Powers and Responsibilities and Other Legislation Amendment Bill 2024. My name is Adrian Tantari. I am the member for Hervey Bay 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 people, whose lands, winds and waters we all share. With me here today are: Mr Stephen Bennett MP, member for Burnett and deputy chair; Mr Michael Berkman MP, member for Maiwar; Ms Cynthia Lui MP, member for Cook; Dr Mark Robinson MP, member for Oodgeroo; and Mr Rob Skelton MP, member for Nicklin.

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 guests may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the briefing at the discretion of the committee. 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 and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may appear on the parliament's website or social media pages. Could you now please turn your mobile phones off or to silent mode.

CONNORS, Assistant Commissioner Brian APM, Crime and Intelligence Command, Queensland Police Service

FERGUSON, Ms Helen, Acting Director, Legislation Group, Policy and Legal Command, Queensland Corrective Services

IMPSON, Mr Jamie, Manager, Strategic Policy and Legislation Branch, Policy and Performance Division, Queensland Police Service

ROEDER, Deputy Commissioner Ursula, Community Corrections and Specialist Operations, Queensland Corrective Services

SANDERSON, Ms Kate, Manager, Legislative Policy Unit, Strategy, Policy and Reform Division, Queensland Health

CHAIR: Good morning. Assistant Commissioner Connors, would you like to make a short opening statement before we ask some questions?

Assistant Commissioner Connors: Thank you, Chair and committee members. I, too, would like to respectfully acknowledge the traditional custodians of the land on which we meet today, the Yagara and Turrbal peoples, and pay my respects to elders past, present and emerging. I extend that respect to all Aboriginal and Torres Strait Islander peoples.

My name is Brian Connors. I am the Assistant Commissioner for the Crime and Intelligence Command and I am one of the executive champions for the QPS pride network, one of the service's networks bringing together employees to foster dialogue around diversity, workplace inclusion and belonging. I thank the committee for the opportunity to appear and give a briefing on the Police Powers and Responsibilities and Other Legislation Amendment Bill 2024 to assist the committee with its inquiry.

Public Briefing—Inquiry into the Police Powers and Responsibilities and Other Legislation
Amendment Bill 2024

The amendments proposed in the bill will enable our officers to deliver an even better service to trans and gender-diverse people when conducting searches and some forensic procedures. The Queensland Police Service acknowledges that the relationship with people from the LGBTIQ+ community has not always been consistent with professional practice and community expectation. We are working to address this through an improved understanding and appreciation of diversity, supported by policy and education that shapes expectations, occupational attitudes and values.

On 20 January 2023, former commissioner Katarina Carroll APM delivered an apology and statement of regret to LGBTIQ+ communities for historical mistreatment over the past 30 years. We are proud to have built an emerging and positive relationship between our organisation and LGBTIQ+ communities. Every interaction between QPS members and people from LGBTIQ+ communities, whether in casual conversation or as a victim, witness or offender, is an opportunity for us to rebuild relationships and strengthen trust.

Last year the QPS developed the *Policing for people from LGBTIQ+ communities* guidelines to ensure our members are aware of their obligation to engage with people from the LGBTIQ+ community in accordance with legislation, policy and best practice and to ensure those interactions are respectful, ethical, equitable, fair and compatible with people's human rights. I am pleased to share that we now have over 200 LGBTIQ+ liaison officers located across Queensland to provide discreet, non-judgemental advice, support, assistance and referral for all police related matters. These officers are invaluable in promoting trust and understanding between police and people from the LGBTIQ+ community.

The amendments in the bill will support the service's continued dedication to delivering a professional, non-discriminatory, accessible policing service to LGBTIQ+ communities. The bill amends rules about how officers may exercise particular powers to ensure that trans and gender-diverse people receive the same protections as other Queenslanders, without making specific reference to gendered language unless absolutely necessary. The amendments replace the existing same-sex safeguard for personal searches with a new framework. The framework retains the same gender starting point but creates a new dialogue model enabling a respectful discussion about how the search would be conducted and if that person has any preference about the gender of the officer conducting that search.

A person may also express a preference in a way that would require a different officer to search the upper and lower parts of the body. If a person expresses a preference, the officer must accommodate that preference unless there are reasonable grounds to believe it is expressed for an improper purpose or it is not reasonably practicable to accommodate. The limited discretion will allow officers to protect the Queensland community in a way that recognises the diverse needs of members of the public while ensuring the rights and safety of individual officers are also protected in the course of their duties.

The new framework includes that any person may be directed by the officer to: conduct the search if reasonably necessary to accommodate a preference; ensure that search is conducted by someone of the same gender; or address a concern related to gender in a way that minimises embarrassment or offence. It is not proposed that, at any stage of the process, any person is required to disclose their gender identity. This promotes the right to privacy for both the subject person and the police officer conducting the search. The bill applies this framework to inspections of a person's belongings conducted by police officers, protective services officers and watch house officers and to searches conducted under the Crime and Corruption Act 2011. Everyone deserves to receive equal protection by the law. These changes ensure Queenslanders continue to enjoy the most stringent search safeguard provisions in Australia and will provide the broadest protections to LGBTIQ+ people in Queensland.

In terms of forensic procedures, this bill makes all references in relation to breasts gender neutral. In doing so, the bill extends several safeguards currently only afforded to women to apply to people of all genders. These amendments ensure the safeguards for procedures performed on breasts that require a person in any way to touch a person's breasts are applied equally to all people. The bill also updates the safeguard that applies where a person authorised to perform a forensic procedure requests assistance from another person to conduct that forensic procedure. To align more closely with similar safeguards, this only applies to people who are not health professionals.

In relation to photography of breasts, existing laws prohibit police officers from requiring a female or a transgender person who identifies as female to expose their breasts for photography. This bill will change this position to enable a police officer to require a person of any gender to expose

their breasts for photography in certain circumstances. Photography may be required to capture identifying particulars such as permanent distinguishing marks such as birthmarks, scars or tattoos. They may also be required to capture bruises or an injury. These photographs have significant value for evidentiary purposes and help to ensure the detection and successful prosecution of offences.

The bill inserts a new safeguard with a starting point that the photograph must be taken by someone of the same gender as the subject person and provides that that subject person must be given an explanation of the process and reasonable opportunity to express a preference about the gender of the person taking the photograph. To protect the dignity of a person who is required to expose their breasts for photography, a police officer must not require the person to remove more clothing than is necessary for that photograph to be taken. Further, a police officer must, if reasonably practicable, ensure that photograph is not taken where the process can be seen by someone who does not need to be present. Photographs of breasts taken as a forensic procedure will no longer require a forensic procedure order or forensic procedure consent under certain circumstances.

Minor amendments will also be made to replace or remove unnecessary gendered language from police and Crime and Corruption Commission legislation by using gender-neutral language across several statutes. These changes do not alter the underlying policy intention, only the way it is expressed in terms of legislation. The bill also contains amendments to legislation administered by Queensland Health and Queensland Corrective Services. With me here today are officials from these departments. Once again, I thank the committee for the opportunity to provide a briefing on the bill. I now turn to Ms Ursula Roeder from Queensland Corrective Services.

Deputy Commissioner Roeder: Good morning, Chair and members of the Community Support and Services Committee. Thank you for the opportunity to address the committee in relation to the Police Powers and Responsibilities and Other Legislation Amendment Bill. I would firstly like to acknowledge the traditional owners of the land on which we meet. I pay my respects to elders past, present and emerging and acknowledge all First Nations people with us today.

I will provide the committee with an overview of the amendments in the bill that relate to Queensland Corrective Services and the policy objectives intended to be achieved. Firstly, I would like to outline the amendments to the Corrective Services Act relating to the parole framework. The amendments in the bill are intended to reduce the trauma that can be experienced by victims of crime each time they are notified of a parole application and provide greater certainty around when another parole application can occur.

The bill amends the Corrective Services Act to provide Parole Board Queensland with discretion to set longer periods between parole applications. If the Parole Board refuses a prisoner's parole application, the amendments will enable the Parole Board to set a longer period of time before the prisoner can reapply. For life-sentenced prisoners, this period will be up to five years; currently this period is three years. For other long-term prisoners serving an individual sentence of up to 10 years or more for a single offence, this period will be up to three years; this period is currently six months. For all other prisoners, this period will be up to one year; this period is also currently six months. These time frames provide the board with more discretion to set an appropriate period that reflects the prisoner's prospects of release, reducing the need to consider reapplications from prisoners regularly when they have taken no steps towards rehabilitation.

When making parole decisions, the Parole Board's highest priority will always continue to be the safety of the community. The bill ensures an efficient and effective parole system by reducing unnecessary reapplications so that the Parole Board can reprioritise other decisions. This will support the humane containment and supervision of offenders by ensuring the timely assessment of prisoner suitability for parole release. As a safeguard, the amendments do not affect a prisoner's ability to apply for exceptional circumstances parole and the Parole Board can still consent to a new parole application during the restricted period.

Next I would like to discuss the amendments to the Corrective Services Act to promote timely prisoner safety order decisions. Currently, only doctors or psychologists who are employed by Queensland Corrective Services are authorised under the act to conduct clinical assessments of prisoners at risk of harming themselves or others. This clinical assessment is then used to inform the chief executive or delegate about whether to place a prisoner on a safety order based on their level of risk and individual needs. The timeliness of these assessments is essential to ensuring the continued safety and wellbeing of prisoners.

The bill enables Queensland Corrective Services to appoint from a greater pool of professionals that have suitable mental health training and experience; namely, social workers, occupational therapists, nurses and speech pathologists. The flexibility to appoint professions outside

of doctors and psychologists responds to the national critical psychology workforce shortage being felt by multiple agencies, including Queensland Corrective Services. As a strong safeguard, the bill clarifies that professionals with these qualifications will also be required to have appropriate training in assessing a prisoner's risk of self-harm or suicide in the context of a correctional centre in order to be appointed. In addition to being one of the practitioners listed, the individual must also meet specific professional registration, competency and training requirements set out in an accompanying policy which will exclude those not suitable for this role. The amendments will allow for a more timely assessment of a prisoner's mental health for the necessary treatment in support of their welfare.

Lastly, I will address amendments to the Corrective Services Act and Planning Regulation to clarify the application of planning legislation to Corrective Services infrastructure. As a public safety agency, Queensland Corrective Services owns and operates several premises that support its function. This includes land across the state where Corrective Services facilities are located, along with other infrastructure developed to support the operation of Corrective Services facilities and community facing functions. The bill includes a technical amendment to clarify that infrastructure on prescribed lots of land established by Queensland Corrective Services to support functions is accepted development that cannot be categorised as assessable development for the purpose of the Planning Act and Planning Regulation. The intent of this amendment is to ensure planning processes are consistent with existing processes for the development of Corrective Services facilities. The bill also clarifies existing practices to ensure Queensland Corrective Services delivery can continue on land owned by Corrective Services without new planning requirements. The amendments will ensure that the development of infrastructure that supports the safe delivery of corrective services is subject to appropriate approval processes consistent with how Corrective Services facilities are developed. Queensland Corrective Services is committed to continue to work with councils on the development of Queensland Corrective Services land.

In conclusion, the amendments to the Corrective Services Act and Planning Regulation aim to support an efficient and effective parole process that limits further trauma for victims, promote the ongoing safe management of prisoners at risk of suicide or self-harm, and clarify the application of planning legislation to Corrective Services infrastructure to support the safe delivery of corrective services. We welcome any questions from the committee regarding amendments to the bill.

Ms Sanderson: We do not have an opening statement. We are happy to answer any questions.

CHAIR: I am sure committee members have a lot of questions. I will turn to the deputy chair, the member for Burnett, for the first question.

Mr BENNETT: Good morning. This is an open question. Do you foresee any resourcing issues in the short term about having to honour the new proposals about same sex interviews et cetera once it reaches its conclusion?

Mr Impson: In relation to staffing issues, we do not really foresee there will be any changes to our existing practice. The bill does contain some exceptions in the same-sex search safeguard provisions that relate to the reasonable practicability of complying with a preference. If a person indicates a preference for an officer of a particular gender—we may only have several officers of that particular gender in the state of Queensland—and it is just not possible to get someone there, the dialogue model will be available to them. They can discuss that openly with the person and say, 'We could potentially have a woman police officer conduct this search. Is that okay with you?' If the person is amenable to that, then there would be no change.

Assistant Commissioner Connors: As you would understand, in very rural and remote locations there may be a difficulty sourcing a person of the same gender, so there are protections in there that allow a person's dignity to be protected at the same time while allowing reasonable actions to be taken to allow business to continue in a way that considers the rights of the individual but also protects the police officers or officer involved.

Mr BENNETT: You raised the issue of the safety of officers. A lot of the provisions in the bill talk about cameras being switched off because of dignity issues. When I read that, my first thought was how do we make sure that the officers who are conducting those searches are protected? I would have thought that CCTV and other things would have been a pretty good mechanism in terms of protecting the safety of those particular correctional or police officers.

Assistant Commissioner Connors: I think dignity is obviously the starting point, but that has to be balanced with the need for the individual person's or party's safety. There are steps that can be taken to minimise that risk—for example, having an additional support person standing close by but out of view, or a door ajar so someone can listen to the search being conducted and be ready to

respond and provide support and assistance. There are steps that we can take and that will be part of the training process to allow people to be comfortable with the searching process. There will also be circumstances where it will not be practicable to allow that because people will be noncompliant or combative with officers who are involved. There will be difficult circumstances, but routinely that conversation and engagement with the person is a great starting point to build rapport, de-escalate the situation and provide a level of comfort. There will be a risk assessment basis applied at the time by staff involved to determine whether it is safe to go ahead and do it or not.

Mr Impson: If I could just elaborate a little bit on that. The amendment in the bill in relation to the use of video cameras monitoring an area where a search is conducted is only to prevent CCTV from being used in that situation. It is still open for the officer to use a body worn camera or any other recording device. Indeed, service policy does also enable video recordings to be taken of unclothed searches in particular situations where there is a potential risk to anyone involved in the search.

Assistant Commissioner Connors: Which mitigates the situation of a third party watching at the same time in a live format of a search, whereas the recording of that search on an officer's body worn camera or by a third party with a camera allows the information essentially to be collected if it is required later.

Mr BENNETT: I have to check, but section 632 of the current act says 'ensure the camera is turned off'. It is quite explicit. It does not say 'and then will leave the door open and then we can have another officer there'. With all due respect, that was my question. Fundamentally, everyone's safety is important. We will have to do some more work on the intent of the legislation, but when you read section 632 it is quite explicit that the camera must be turned off, particularly with the removal of clothing.

Mr Impson: That section covers where there is a video camera monitoring the place. It is for fixed cameras like CCTV cameras. If the search is conducted in a public place and there is a CCTV camera monitoring that area, the monitor of the camera needs to be turned off if practicable.

Mr BENNETT: Officers do have protection? That is my first concern.

Assistant Commissioner Connors: Yes.

Mr Impson: They can still use their body worn cameras.

Ms LUI: Thank you for your time this morning. Clause 36 of the bill proposes that if it is reasonably practicable, a person called on to help with an intimate forensic procedure must either be the same gender as the person undergoing the procedure or a doctor, dentist or forensic nurse examiner. In section 517 of the current Police Powers and Responsibilities Act the language is a little different. In the current act the helper must be one of these types of persons unless such a person cannot be reasonably called on. The change to reasonably practicable seems to soften the criteria for an exception. What was the thinking behind this change?

Mr Impson: We might need to go and look at that one in a bit more detail in relation to the exact nuance between the current drafting and the proposed amendment. Largely, it is to align with other provisions in the act in relation to forensic procedures. There is another provision that enables a doctor, dentist or forensic nurse examiner to be called upon to help with no reference to their sex. This is to align it with that one to allow a professional's ethical obligations to apply in that circumstance rather than a strict safeguard in the legislation. We do not really envisage a person of the same gender being used terribly often. It would be something like Assistant Commissioner Connors raised in rural, remote and regional areas where it is just not practicable to get anyone else to help. It could potentially be someone who is known to the police officer who could help in that narrow circumstance.

Dr ROBINSON: Thank you to everyone for appearing this morning. Assistant Commissioner Connors, in your opening remarks you talked about gendered language. Can you discuss further how that gendered language may be applied within the Police Service? Will it be mandatory for all officers to use that language? If that is true, what about in cases where—which is common—people believe there are two sexes, male and female, and do not agree with some of the ideology around this and do not want to use those expressions? What rights do those officers have, or is gendered language going to be optional?

Assistant Commissioner Connors: The conversation around gender is the starting point of a conversation between police officers or police employees and members of the community. It is about providing a level of comfort and consistency in the engagements that we make. In terms of a conversation around sex or gender, it is a conversation around what people are comfortable with as a starting point for those interactions where police may be required to search a person or to ask a person those questions. I cannot give you an opinion one way or the other in terms of whether that is

right or that is wrong as a starting point for those conversations beyond the fact that it is a way to engage with the community, to consider the rights of all individuals, and potentially not put people in the position where they have to overtly affirm their sex one way or another. My answer would be that it is the start of a conversation around a person's comfortableness as to what they identify as and proclaim themselves to be, bearing in mind there are changes pending under the births, deaths and marriages act.

Dr ROBINSON: Without asking for a legal opinion, can you point in the legislation to where it protects the rights of officers to not have to use particular gendered language without some kind of implication for them?

Assistant Commissioner Connors: The starting point essentially is that we are having those conversations with individuals with regard to the process we are about to conduct or carry out. The starting point is, 'I intend to do this. What are you comfortable with?' We are not abrogating any conversation about sex other than the conversation around, 'What are you comfortable with and what is the best way to proceed?' It is to protect the person's dignity and human rights, essentially. We are not forcing anyone to have a conversation about sex or gender. We are starting the conversation with, 'What are you comfortable with and where do we go from here?'

Dr ROBINSON: There will not be any implications for police officers who do not particularly want to use certain pronouns or certain language in their interaction with the community?

Assistant Commissioner Connors: We are not suggesting that people should use those pronouns or whatnot as a routine starting point. The conversation, from my perspective, would be one of engaging with a particular person around what I intend to do and what I need to get done. 'How comfortable you are with that occurring and what would you prefer to allow that to occur?' My response then essentially would be, 'We can go ahead and do it or I can make arrangements for someone else to do it based on what you are comfortable with.' That is obviously in ideal circumstances. My understanding is that there is not a conversation around gender pronouns or identification at that particular point in time, no.

Mr SKELTON: With regard to restricting a prisoner's access to appeals and how this might impact on the human rights of prisoners, what consideration was given to balancing this with the rights of their victims? I think Deputy Commissioner Roeder spoke about this earlier. Maybe you could provide a little bit more detail.

Deputy Commissioner Roeder: In relation to the parole application?

Mr SKELTON: Yes.

Deputy Commissioner Roeder: Currently, prisoners are able to apply for exceptional circumstances parole. They can do that. If the Parole Board were to decline someone's parole and make a declaration that they were not able to reapply within a set period of time, the prisoner still has the right to ask for a statement of reasons to understand what those reasons might be. They also have an opportunity to submit for a judicial review of that decision. The rights that they currently have in place will remain in place. The change does not take those rights away.

Mr SKELTON: Getting to the nuts and bolts of it, it is basically around unnecessary litigation and dragging things on so that it is timely for both parties?

Deputy Commissioner Roeder: The real intent of the legislation is that, when a prisoner applies for parole, the Parole Board considers submissions from the victim. If the victim is an eligible person on our victims' register, we can engage with them. We will engage with the victim to advise of the parole application. The amendment is really about not retraumatizing victims if the prisoner is declined parole and then continues to reapply straightaway in a continuous manner. The Parole Board will consider, if they decline, what they would like to see from the prisoner before they reapply.

Mr SKELTON: Thank you. That seems very fair and reasonable.

CHAIR: I was going to ask a very similar question so I may as well take this opportunity, with the indulgence of the committee, to elaborate on your reply. During your opening statement, you mentioned 'exceptional circumstance'. What would that be?

Deputy Commissioner Roeder: If a prisoner, for example, has a really severe medical condition and they are nearing end of life and medically there was information to support that, the Parole Board could receive an exceptional circumstances parole application and consider that for release.

CHAIR: Is there any other circumstance in which that would apply?

Deputy Commissioner Roeder: Exceptional circumstances?

CHAIR: Yes.

Deputy Commissioner Roeder: Generally that is the main one. They are circumstances that are extraordinary. Usually it is about end of life in the imminent future.

Mr BERKMAN: I refer to the provisions around the preference of a person undergoing one of these intimate processes. Their preference will be respected with the couple of exceptions you mentioned: the reasonable practicability of adhering to it and expressing a preference for an improper purpose. I am curious about what consideration was given to a further definition of those two terms in particular, both the improper purpose and the reasonable practicability? Are there any concerns about the absence of a definition around those two terms in particular?

Assistant Commissioner Connors: If the committee allows, I might talk about the capability but on the reasonable purpose I will let Mr Impson answer, if that is okay.

Mr BERKMAN: Of course.

Assistant Commissioner Connors: Queensland is obviously a very large state and there will be circumstances from time to time where there is no-one available to conduct an initial search perhaps or a procedure, basically. Therefore, we need to be able to call on a third party or someone else to assist when we do not have an appropriate person available. Routinely, persons coming into police custody, into a watch house environment or a custodial environment, are searched for a number of reasons and for the individual's safety and police officers' and staff members' safety. That is for a range of things whether it be concealed contraband of some type or other. It is a safeguard perspective in terms of our obligations to maintain a safe environment for that person. At the first point of contact there is the searching process. The changes are designed to start a conversation with that person about how we can best conduct that search for your safety, for our safety and to make sure that you are coming into custody and you are going to be okay. I guess that is the starting point for that.

In terms of the photography and things related to that, it is a similar conversation around that to protect the person's dignity and also to set about achieving what is required in terms of taking that photograph. In terms of answering the first part of your question, I will ask Jamie to talk about what is considered an improper purpose and what is not.

Mr Impson: The phrase 'improper purpose' is intended to take its ordinary meaning. The explanatory notes state that it is intended to operate broadly. For example, a subject might make lewd comments or gestures about the particular officer they prefer to conduct the search. They might express an offensive preference to be searched by a person of a gender they do not identify as or they might not genuinely have a preference to be searched by a person of a particular gender but are expressing a preference solely to frustrate the public official from performing their duties. It is just meant to capture circumstances where a person is not expressing that preference for a real reason.

Mr BERKMAN: Was consideration given to making that more explicit within a definition in the legislation, for example?

Mr Impson: It was one option that is available but creating a definition, if it is an exhaustive definition, closes off what an 'improper purpose' is. It would mean it no longer has its ordinary meaning; it would only be confined to those particular circumstances. As you can appreciate, when an officer is conducting their duties they can come across any number of scenarios. We do not want to make it so that it was unreasonably limited and might result in an officer being degraded or having their human rights limited.

Assistant Commissioner Connors: There could be a reverse circumstance there based on the police officer themselves and the person who the process has been explained to so it protects the police officers as well.

Mr BERKMAN: Can both QPS and corrections detail what steps were taken to consult directly with the LGBTQIA community around these proposed amendments?

Mr Impson: With approval from government, the department did consult with key external stakeholders in the development of the bill. This included key civil society, LGBTIQ+, human rights and legal stakeholders, employee unions, government departments and independent agencies. We did consult with LGBTIQ+ organisations.

Mr BERKMAN: Can I ask the same question of corrections?

Ms Ferguson: To clarify, the member's question was about the LGBTIQ stakeholders. Those stakeholders are not really relevant for the Corrective Services amendment bill. Are you asking about the general consultation or about similar Corrective Services provisions?

Mr BERKMAN: Similar Corrective Services provisions.

Ms Ferguson: To clarify for the members of the committee, on 13 February the Hon. Nikki Boyd, the Minister for Fire and Disaster Recovery and Minister for Corrective Services, introduced the Corrective Services (Promoting Safety) and Other Legislation Amendment Bill into parliament. Amendments in that bill address similar Corrective Services provisions in relation to the searches of prisoners. That bill was referred to the Community Safety and Legal Affairs Committee and they tabled their report on Friday. In terms of consultation, the exact stakeholders that were consulted are listed in the explanatory notes to that bill. They did include a range of LGBTIQ stakeholders, including those particularly targeted legal services. That occurred through drafting. A number of stakeholders also provided submissions on the bill, including Pride in Law. That consultation did occur, just in a separate vehicle.

Mr BENNETT: 'Forensic procedure' is clarified in a couple of the explanatory clauses. Excuse my ignorance, but I wonder what that might entail.

Assistant Commissioner Connors: The first component part that we are talking about and the shift here is a non-invasive process. A photograph steps outside the forensic procedure because we are not touching somebody, taking a sample of any particular item or anything off a person's person. The photography component is not a forensic procedure and that is not considered to be invasive. Things taken as part of a forensic procedure may include things like a swab or a sample of hair, a scraping of skin or something where there is essentially contact with the person to take something off their body or person. That is the invasive component part of the requirement to seek an order as opposed to not touching or sampling anything.

Mr BENNETT: This question is maybe to Corrective Services. I am curious about the safety of persons who are presented to your facilities in terms of their own personal safety and how they identify. Are there any implications in people identifying as a certain gender and so on? How could we cope with that for their own personal safety and the safety of other prisoners in the facility?

Deputy Commissioner Roeder: I can talk operationally about how we currently do that. Our changes in relation to gender are, as indicated, going through a different vehicle. However, in terms of our practices for how we manage someone who identifies as a different gender, on admission we will engage with that person and seek their input into how they would like to be identified. We have a multi-assessment panel that includes doctors, psychologists and counsellors. They are support people who will work and assess in terms of what facility that person is best placed at. There is quite a rigorous process around that. Certainly, their input and their preferences are identified on admission and then there is an assessment process that works around that.

Mr BENNETT: Off the top of your head, and it may be a difficult question, in Queensland do we have the number of people who identify under the LGBTIQ society or group?

Deputy Commissioner Roeder: Yes, we do. I do not have those on me, though.

Mr BENNETT: Would you mind at some point getting back to us? Is that alright, Chair?

Ms Ferguson: To clarify the member's question, are you asking specifically about prisoners in QCS custody?

Mr BENNETT: Yes, indeed.

Ms Ferguson: We can take that on notice with permission, yes.

Ms LUI: This question is directed mostly to Queensland Health. The explanatory notes state that stakeholders were not consulted with respect to changes to the Public Health Act. Given the vulnerability of the cohort being considered, including people with mental health issues, disabilities or other impairments, can you advise the reasons for not consulting with stakeholders on this aspect of the bill?

Ms Sanderson: Stakeholders were not consulted on the proposed changes to the Mental Health Act or the Public Health Act relating to the same-gender search requirements. This is because there was an opportunity to include these amendments in the bill which did not allow time to conduct separate consultation. However, in November last year, statewide mental health services were provided with information to highlight gender considerations around searches and, at that time, had an opportunity to discuss the operational challenges arising from the current strict same-gender requirements.

CHAIR: I think we just went off air for some reason. We are back on now. Please keep going.

Ms Sanderson: Mental health services were provided with the opportunity to provide input on the impact of the current strict same-gender search requirements. Since introduction, the LGBTIQ+ round table has been consulted on the proposed amendments and encouraged to provide feedback

to the committee. Early feedback from the round table was supportive. However, they expressed a desire to see more detail about how the amendments would be operationalised. That will occur during the implementation period to allow Queensland Health to finalise those operational matters, including with stakeholders. That will include having input on guidance materials and policies and things like that that support the legislation.

Dr ROBINSON: What provisions in the bill would ensure the safety and integrity of women in a strip search situation where the police officer's gender identity does not align with their biological sex? For example, if you have an officer who is a biological male but self-identifies as female, does the bill protect women being searched in that situation?

Assistant Commissioner Connors: In essence, yes, it does because the conversation perspective is, 'What are you comfortable with?' Then there is the opportunity for a compliant person, obviously, to raise a concern around somebody being searched. There is also the ability for police members to remove themselves from that process and not participate. There are protections both ways.

Dr ROBINSON: In the case where a female objects to being searched by a certain person, where does the bill fall in terms of the rights of that person?

Assistant Commissioner Connors: Essentially it allows, if that objection were raised after the initial conversation, to find somebody else to undertake that search if appropriate and reasonable; however, that would again go back to the situation in the legislation that allows police to call on other persons to assist and help out. In the case of the Brisbane city watch house, there might be ample support available to utilise somebody else to conduct it if that objection were raised, but it may be different under different circumstances in, say, Urandangi or somewhere far more remote where a single officer may be required to call on a local person, their wife or somebody else to assist. I hope I am answering your question.

Dr ROBINSON: I think you are broadly trying to, Assistant Commissioner Connors. I am just trying to understand if the legislation changes the human rights balance in terms of the situation where a female says, 'At the end of the day, I still don't want that person to search me even if you can't find the right person.' Can you point to somewhere in the legislation that confirms that right?

Assistant Commissioner Connors: Not specifically in this material, but the implication is that we do search persons coming into custody for a variety of reasons—regardless of objections or not—and under certain circumstances to keep people safe as part of our duty care and safeguarding persons in our custody. That conversation would obviously start out about the level of comfortableness of that particular person getting someone searched. When we offer the person to do the search, if there were a second objection there would be arrangements to try and find an alternative situation. If it reached the point where that was not available and it was deemed necessary as that person was coming into custody and the search was to be conducted, then maybe a search would be conducted without the consent of that particular person and adhering to the safeguards within the legislation about the individual person being able to record the search, having a separate person standing by to provide assistance et cetera. I hope that clarifies the question.

Dr ROBINSON: I think that has clarified the question. I have further concerns about the rights of women in that situation. I think that needs further consideration, but thank you for your answer.

Mr SKELTON: This is probably a broad question for the police and Corrective Services: following the passage of the bill, what training and public information will be provided to officers and the public?

Mr Impson: In terms of Queensland Police Service changes, we are still working through what the training we will deliver will look like. We are engaging right now across the service to develop that training. That will be delivered to members before the amendments commence.

Mr BERKMAN: I have a quick question to corrections officers around parole changes. Obviously there is a balance between victims' rights and prisoners' rights. What further detail can you give on the consideration given to balancing the rights—particularly the human rights—of prisoners with the rights of victims?

Deputy Commissioner Roeder: In making decisions, human rights are always considered. I cannot speak specifically to decisions made by the board—that is a matter for the board—but I can talk to the information that they take into account when making their decisions. It is matters such as: the prisoner's attitude towards their offending; their plans for release; what their criminal history looks like; any sentencing remarks from the court; any recommendations made by the court; whether they have participated in rehabilitation programs; and what their custodial behaviour has been like,

Public Briefing—Inquiry into the Police Powers and Responsibilities and Other Legislation
Amendment Bill 2024

including negative incidents in the prison system, positive urine tests et cetera. In summarising all that information and making a decision not to approve parole for someone, there is sufficient information before the board to consider what a prisoner might need to do to be suitable. That information is usually relayed to the prisoner; for example, you will need to complete a sex offender program before you reapply et cetera. Certainly, those rights are balanced, but it is in the context of community safety and whether that person poses an unacceptable risk to the community if released at this point in time.

ACTING CHAIR: Adrian has just had to step out so you are stuck with me, but that is all good. I am not sure where we are at. If no-one has any further questions, we will close the proceedings. Thank you for all the evidence. I ask that answers to the couple of questions on notice be provided by 22 April. Mr Impson, you mentioned that QPS would look into the definitions around clause 36. Are you happy to follow up on that for us?

Mr Impson: Yes, thank you.

ACTING CHAIR: And the statistics on the number of prisoners who identify in the corrective services system. Thank you for that. If everyone is happy—now that we have lost our rudder—thank you to Hansard.

Mr SKELTON: He is on too many committees!

ACTING CHAIR: Indeed. A transcript of these proceedings will be available on the committee's webpage in due course. With that, I declare the briefing closed. Thanks, everyone.

The committee adjourned at 9.35 am.