EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE

Members present:
Ms KE Richards MP—Chair
Mr JP Lister MP
Mr MA Boothman MP (virtual)
Mr N Dametto MP
Mr BL O'Rourke MP
Mr JA Sullivan MP

Staff present:
Mr R Hansen—Committee Secretary
Dr S Dodsworth—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE CORRECTIVE SERVICES (EMERGING TECHNOLOGIES AND SECURITY) AND OTHER LEGISLATION AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

MONDAY, 23 JANUARY 2023

Brisbane

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The committee met at 1.58 pm.

DRANE, Mr Michael, Senior Executive Director, Youth Detention Operations and Reform, Department of Children, Youth Justice and Multicultural Affairs

FERGUSON, Ms Helen, Manager, Legislation Group, Queensland Corrective Services

HALL, Mr Phil, Acting Director, Youth Justice Legislation Projects, Department of Children, Youth Justice and Multicultural Affairs

HUMPHREYS, Mr Tom, Assistant Commissioner, Strategic Futures Command, Queensland Corrective Services

HUTCHINS, Ms Annika, Director, Legislation Group, Queensland Corrective Services

CHAIR: I welcome from Queensland Corrective Services: Mr Tom Humphreys, Assistant Commissioner, Strategic Futures Command; Ms Annika Hutchins, Director Legislation Group; and Ms Helen Ferguson, Manager, Legislation Group. I welcome from the Department of Children, Youth Justice and Multicultural Affairs: Mr Michael Drane, Senior Executive Director, Youth Detention Operations and Reform; and Mr Phil Hall, Director, Youth Justice Legislation Projects. Thank you for your response in regard to the submissions. Would you like to respond to any of the submitters we have had here this morning? Then the committee will have some questions.

Mr Humphreys: Thank you for the opportunity for officers from Queensland Corrective Services and the Department of Children, Youth Justice and Multicultural Affairs to come back to address the committee in relation to the Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022. I would like to start by acknowledging the traditional owners of the land on which we meet today and pay my respects to elders past, present and emerging. I would also like to acknowledge and thank those individuals and organisations who have made submissions to the committee's inquiry or appeared today to share their perspectives on the bill. Particularly, I appreciate the organisations who prepared submissions over the holiday period.

To assist the committee in considering the bill, I would like to take the opportunity to respond to some specific issues raised by stakeholders—some of which we have heard today. First, I turn to the human rights considerations of the bill. Queensland Corrective Services is committed to the humane detention, supervision and rehabilitation of prisoners and detainees in our care and continues to implement the Human Rights Act in day-to-day operations. Due to the unique nature of the closed correctional environment, it is acknowledged that the engagement and potential limitation of a large range of human rights is inherent in the delivery of correctional services.

Section 3 of the Corrective Services Act recognises that every member of our society has certain basic entitlements and that, other than those that are necessarily diminished because of imprisonment, these basic entitlements should be safeguarded. The amendments in the bill do engage and in some respects limit a range of human rights protected by the Human Rights Act. However, as outlined in the statement of compatibility the minister tabled with the bill on introduction, these limitations are considered justified.

The closed correctional environment is complex. While addressing a range of issues, the core purpose of the amendments is to uphold and promote the safety and security of Corrective Services facilities and the safety and security of those who live or work within this closed environment. The amendments in the bill are therefore considered to achieve an appropriate balance between the potential limitations placed on individuals and the importance of ensuring a safe and secure environment for all.

I would like to now turn to issues raised by stakeholders in relation to the emergency declaration framework. The power in the bill to declare an emergency at a Corrective Services facility under the Act has been designed to better respond to significant recent events that have presented a real risk

to the safety and security of the correctional environment and health and safety of people living, working and visiting correctional facilities. These situations in recent years have included bushfires in 2019, the COVID-19 public health pandemic and flooding in 2022.

Significant safeguards have been included in the new framework. To make a declaration, the chief executive must reasonably believe a situation exists that is likely to threaten the security or good order of a facility or the health or safety of a prisoner or another person at a facility. The chief executive must further be satisfied the situation justifies making the declaration.

In addition, the power to make a declaration cannot be delegated and is subject to ministerial approval. The chief executive is also required to consult with other agencies as applicable to the relevant emergency. There are also strict maximum durations for the emergency declaration to reflect the risks of each type of emergency, and the chief executive is required to ensure the declaration is no longer than is reasonably necessary given the emergency. Finally, once a declaration is made, the declaration must be published along with the reasons for making the declaration.

Next I turn to the changes to the prisoner security classification framework included in the bill. The amendments aim to provide greater meaning to a prisoner's security classification status. This is facilitated in a few ways—first the inclusion of risk subcategories which are intended to sit within the existing high and low classifications. If prescribed, the risk subcategories can provide additional options for progression through categories of risk within the high or low prisoner security classification category, demonstrating steps towards rehabilitation for the purposes of parole decisions and in management decisions. The development of risk subcategories is dependent on operational requirements and will be further considered following passage of the bill. This will include human rights considerations. However, any risk subcategory imposed will be subject to existing review and reconsideration process under the Corrective Services Act. Further, the subcategories do not replace the high and low classifications in the Act. I think that is a point worth emphasising.

Second, the amendments move to event-based review periods. To undertake a review of a prisoner's classification based on an event or following a request by a prisoner supports a more timely and meaningful response to prisoner management and escalating or de-escalating risk within the correctional environment. The changes are safeguarded by a requirement from the chief executive to review a high classification of certain prisoners every three years if one of these events has not already occurred.

There are a range of events that may appropriately trigger a security classification review including a prisoner's return from a low-custody to a high-security facility following an incident such as a serious assault or if concerns are raised about a prisoner's elevated escape risk. Similarly, a prisoner's classification may be reviewed if their behaviour improves. The bill also does not prevent a prisoner from seeking a review of their prisoner security classification status at any other time. However, the chief executive is not required to consider the request under new section 13, subsection (2A) and (2B).

I would now like to turn to the information-sharing provisions in the bill. Where practicable, Queensland Corrective Services does obtain a prisoner's consent prior to sharing their information. However, in some circumstances, gaining prior consent is not possible or appropriate. In relation to sharing confidential prisoner information with a health practitioner, the ability for frontline Corrective Services officers to be able to share information recognises the partnership and shared responsibility Queensland Corrective Services and Queensland Health have in relation to prisoner care.

Sharing such information is necessary to fulfil the positive duty Queensland Corrective Services has to ensure the health and wellbeing of persons in custody and responds to numerous coronial investigations over recent years which have noted that improved information sharing between Queensland Health and Queensland Corrective Services would better support frontline officers to respond to immediate risks and improve outcomes for prisoners.

Finally, I would like to address privacy matters and safeguards included in the bill which relate to the new surveillance device authorisation framework and imaging search power. In relation to surveillance devices, the bill provides that a device can only be authorised for use if the chief executive is satisfied the use of the device is likely to enhance defined factors relevant to the closed correctional environment, as prescribed in new section 173A, subsection (1). In considering authorising a device, new section 173A, subsection (2), requires the chief executive to have regard to the privacy of prisoners, Corrective Services officers and visitors in the facility.

Further, new section 173A, subsection (3), requires that an authorisation to use a device includes requirements about the use, storage and destruction of recordings made by a prescribed device and must not authorise the covert use of a device. Finally, in making any authorisation for the

use of surveillance devices, the chief executive is required to ensure any use is compatible with the Human Rights Act and must also comply with the Information Privacy Act including the information privacy principles. The necessity to conduct or review existing privacy impact assessments will be considered in developing the regulation.

In relation to medical safeguards for the new imaging search power, the specific safety measures and precautions to be put in place are subject to further consideration and development following the initial trial of this technology at the Brisbane Women's Correctional Centre. However, in addition to the amendments in the bill which require devices to be prescribed in regulation and enable other requirements to be prescribed in regulation, Queensland Corrective Services will also be bound by requirements in the Radiation Safety Act 1999 and the Radiation Safety Regulation 2021 for any use of X-ray body-scanning technology.

In conclusion, the amendments contained in the bill will support Corrective Services officers and youth detention staff in responding to emerging threats and technology and ensure these closed correctional environments keep pace with the change in a complex work area. My colleagues and I would welcome any questions from the committee.

Mr LISTER: Thank you very much for your appearance today. We have read in the submissions that we have received—and you have had an opportunity to respond to them to some extent—and also heard in person from some of the groups who represent those submissions about the context in which prisoners live. We have heard about the challenges for them in terms of their human rights and their concerns about potential infringement of their rights by this bill.

We have not had an opportunity to hear the perspective of the other half of the equation. Assistant Commissioner, you talked about the unique nature of the closed correctional environment and those who live or work in the closed correctional environment. Obviously we are talking about custodial officers—officers of your department. Can you give some broad context to the environment in which they work and the challenges they face and how this bill strikes an appropriate balance between their safety, their rights and their concerns and those of prisoners?

Mr Humphreys: I might hand over to my colleague Annika Hutchins to elaborate, but as a general point it is a complex environment. Our prisons are large. In some cases we have more than a thousand prisoners in a particular facility. You can expect that in such an environment incidents can and do occur. Safety is our No. 1 priority for staff and prisoners. We have a range of procedures and systems that are designed to minimise the risks to all people who either, as we said, are living in a correctional facility, working in a facility or visiting a facility. I will hand over to my colleague to explain in a bit more detail.

Ms Hutchins: As Assistant Commissioner Humphreys articulated, safety is Queensland Corrective Services No. 1 priority. Operations in that closed correctional environment are complex. There are a variety of risks. You have a complex prisoner cohort who have a range of offences that they have committed in the community who have come into custody that are being managed. It is well known that prisoners have very complex healthcare needs, very complex mental health needs and very complex alcohol and drug matters. On the other side of the coin, there are Corrective Services officers who are turning up every day to do their job. They also expect to be able to go home safely. The agency has an obligation both to the prisoners who are in the state's custody under our care and responsibility and to the officers going to work every day.

Mr LISTER: So what is new? What is the context for your colleagues? There has not been an opportunity for that to be expressed so far.

Ms Hutchins: As Assistant Commissioner Humphreys articulated in his opening statement, there have been a range of significant emergencies recently. In 2019 we had bushfires that necessitated, in consultation with Queensland Fire and Emergency Services, the evacuation of two low-custody facilities. In our living memory of an agency, we are not aware of ever needing to evacuate a facility. That was a brand-new situation that the agency was faced with.

There was COVID-19, which for everyone was a very unprecedented and extraordinary event. The agency responded over time as our response became more sophisticated. However, there were lessons to be learnt from that COVID-19 public health emergency. Then in 2022—nearly this time last year—there were significant flooding events. A number of our facilities were closed off to access. Those emergency threats are one element. Then we have an emerging situation of drones. Drone incidents have been increasing. As we discussed in December, the numbers are becoming quite high.

Then there is also the complexity of prisoner behaviour that puts at risk not only the prisoner and other prisoners but also the officers. Rooftop incidents are the main one. You may have seen in the media recently that within the last week there was another prisoner rooftop incident showing that

these incidents, while historically may not have been very common, have become increasingly common and increasingly complex in their response. A rooftop incident places a significant amount of risk to the prisoner on the roof as well as on other prisoners because it necessitates a whole prison being locked down—the other prisoners in the facility are impacted by that incident. Then you have the staff who are responding to an incident that could go for 12 hours, for example.

In addition to that, in a best practice correctional environment, the agency wants to be able to keep pace with the times, so technology such as imaging body scanners and the new imaging search goes towards a more effective and accurate search methodology, as well as one that is arguably more humane than traditionally invasive searches. In addition, the agency has had CCTV, for example, for a while, however technology such as body worn cameras are very new. While that technology is being rolled out, the Act really needs to keep pace with that change.

Both of those technologies, as I think was articulated in a previous committee attendance, benefit not only the staff and staff safety and the agency in ensuring a safe correctional environment but also the prisoner. In an incident, there is clear evidence that can be reviewed, and the agency does review those incidents quite significantly, and appropriate mechanisms can be put in place, for example, if there is excessive force. Combined, there are a few drivers for this Act and the main one would be safety and ensuring the legislation is modern and fit for purpose to support the agency to be able to deliver the services that they need to deliver.

CHAIR: That was an extraordinarily comprehensive response, thank you.

Mr BOOTHMAN: I want to follow on from what the member for Southern Downs is asking and that is from the perspective of the workers in these prison facilities. I suppose my question will have to be taken on notice. Can the department inform the committee how many assaults on prison workers have occurred, the types of assaults and punishment given to those doing the assaults, and how many working hours are lost due to these assaults, both by year and in the last five years? Is that possible? I want to put a perspective out there that this is what the prison workers have to go through. All we have heard all day is commentary on the rights of the prisoners, but what about the rights of the workers?

Ms Hutchins: As the member considered, we do not have that information at hand, but I am more than happy to go away and see what information I can provide.

CHAIR: What data might be available, thank you.

Ms Hutchins: And what data is available that can go towards that.

Mr BOOTHMAN: I appreciate that.

Mr Humphreys: As a general comment, a response to an assault incident would generally be removal to a detention unit in the first instance, and if the assault was particularly grievous, it could meet the threshold for placement in a maximum security unit on a maximum security order, but the initial response would generally be placement in a detention unit to contain the prisoner and minimise any further risk.

Mr BOOTHMAN: I would appreciate any information on that.

Mr DAMETTO: Assistant Commissioner and the Corrective Services team, thank you very much for attending today and also responding with your submissions to the committee. Firstly, I want to put on record that I believe two days ago it was National Corrections Day where we acknowledge our Corrective Services staff and workforce.

CHAIR: Absolutely, yes.

Mr DAMETTO: Thank you very much. In Townsville, we have a number of facilities there. I believe a number of Townsville's landmarks were lit up in blue in acknowledgement. Well done. A number of submitters have raised concerns about the body scanning and images and for how long some of those images and scans will be stored. From the agency's point of view, for how long would those images have to be stored to ensure that they are being used correctly while also making sure there are no data breaches and the potential use of those images being used in an unsavoury way?

Mr Humphreys: Before I hand over to my colleague, I will mention that we had 60 sites across Queensland lit up for National Corrections Day which was on Friday, and hopefully that number will increase next year. Thank you for the committee's interest in that day.

Ms Hutchins: The imaging capability will depend on the specific device prescribed in the regulation for use. As we are proposing to create a head of power to support that trial, the specific operations of those devices, including storage capacity, if they even have that, is something that needs to be further considered as part of that trial. However, if a device with that capability is

prescribed, the bill includes the regulation-making power to prescribe other requirements procedures including new storage and destruction of an image produced by the imaging search. Also, any regulation will be required to consider human rights and have a human rights certificate of compatibility tabled alongside it.

As a practicality, going back to what one of the previous submitters had raised, for any device that holds an image, there will always be a limited life for which we hold it. It would be physically nearly impossible for the agency to indefinitely or forever hold the images captured by CCTV, body worn camera or imaging search devices. The other point which I think is important to make—and this is more relevant to existing capability, but does lend itself to consideration of how a new capability may be prescribed—is that those images are not accessible by every corrective services officer. They are limited to an officer on an as-needs basis. I know the Privacy Commissioner raised Impala and the agency did take significant steps following Impala to consider how privacy is being used, as I think was mentioned in December, things like other data privacy breaches, so it is something that is very much at the forefront of our thinking.

CHAIR: There are certainly exemplars that can be referred to in terms of Brisbane Airport's use for similar security reasons, I would imagine, in that process.

Ms Hutchins: Yes.

Mr Humphreys: I can offer two examples that might help illuminate that in relation to video footage. With regard to our CCTV cameras, of which we have, I hazard a guess, hundreds across the system, we store footage for a month and then it is disposed of not only for privacy reasons but also for practical reasons. You can imagine over years the volume of storage required would be quite amazing.

CHAIR: You would need another facility to house the data.

Mr Humphreys: Exactly. A counter example is body worn cameras which are being increasingly rolled out to officers. Those cameras work, they are constantly recording, but similar to the police ones you might be familiar with, when an incident occurs, the officer can tap the button and then from 10 seconds, I think it is, beforehand, the footage is retained and it includes audio as well. That can then be stored and accessed. However, the material that is being recorded constantly is just ephemeral; it disappears if we do not need it. Similarly with the CCTV footage, if we become aware that it might provide evidence of an incident or an offence, then we can opt to retain it, but if we do not do that, then it is disposed.

CHAIR: That is interesting. There is an automatic disposal of the footage unless you are otherwise triggering to capture?

Mr Humphreys: Yes. It is practically because, while sometimes you do know, generally you do not know an incident is going to occur. When it is occurring, you can put it on. That is of great benefit to our staff; it protects them and it also protects prisoners. In fact, a failure to turn on a body camera is itself potentially grounds for discipline of our officers. It protects everyone in the facility.

Mr SULLIVAN: Mr Humphreys, were you able to watch the previous witnesses this morning?

Mr Humphreys: Yes.

Mr SULLIVAN: I think you made reference to their submissions in your opening statement this afternoon in regards to the threshold for declaring emergencies and listed some examples of language around whether there is serious risk of harm to prisoners or staff. As you said, that could occur on any given day in any given facility, could it not, a threat of or actual harm or an incident to staff or a prisoner? That is sadly not uncommon. We have had examples of the 2019 fires where the low-risk farm, I guess you would call it, was at risk. Theoretically, a cyclone that sits over Cleveland Youth Detention Centre or something like that—you can see what we consider national disasters. What else do you think is covered? Where on the spectrum, between Wivenhoe Dam is going to flood Wacol to a pandemic or to people hurting each other in prison, does that threshold fall?

Mr Humphreys: As a general point it is always going to be a case-by-case situation. The conditions that are in the bill are conditioned by the general requirement for decisions to be reasonable and proportionate to the incident that is occurring. Furthermore, we now have the Human Rights Act which, as you would be aware, frames the interpretation of that provision. It would be unlawful for us to take action under that provision that is not consistent with human rights. Although it might appear that the threshold is not as high as some might wish, when you add those considerations in, it is supposed to be proportional to the response. Noting that, historically we have

used our existing emergency declaration period very infrequently—extremely infrequently. In fact, until the bushfire events in 2019, I actually cannot recall the emergency declaration power being used. I might be wrong on that.

Mr SULLIVAN: It was not commonly used when there were rioters on roofs or something like that?

Mr Humphreys: Not at all.

Mr SULLIVAN: It was not even engaged then?

Mr Humphreys: No. That is not an emergency for us; that is something that we can handle within our existing powers. I will ask my colleague to comment further.

Ms Hutchins: I will add to that. The other element that makes a threshold for our agency a higher one, as opposed to within our existing power under the Act, is the need to seek ministerial approval, and also it is a non-delegable function. When the chief executive is considering the threshold, to go to a minister to seek approval is, from an operational and practical perspective, a threshold. In addition, the context of the existing section 268, which has been quite revamped, is important because that power has been in our Corrective Services Act for a long period of time. It currently enables an emergency to be declared at a prison for up to three days. It also enables a place to be declared as a temporary corrective services facility and, during a declared emergency, it allows the chief executive to restrict any activity in or access to the prison, transfer prisoners, withhold privileges or authorise police to exercise powers of a corrective services officer. While that power was developed to respond to short-term emergencies, the new framework builds on some of those existing capabilities and then adds safeguards to them, including, as Assistant Commissioner Humphreys has already noted, the publication requirement of those declarations.

Mr SULLIVAN: Again, this question is probably to Mr Humphreys. In your opening statement you mentioned the policy with medical information. You reflected, and I agree with you, that there is a responsibility for health care and sometimes it requires information to be shared to do that effectively. I am trying to think practically. Is it envisaged that it is meant to be shared for providers, whether it is outside providers or healthcare providers or that sort of stuff, or is information that is obtained from prisoners through medical treatment able to be used against the prisoner so they are held accountable for it?

I will give a practical example. As I think Ms Hutchins mentioned, obviously we know that there is a high rate of alcohol and drug abuse in that cohort. If somebody is talking to their doctor about substitutes that they are using—or whatever technical terms you use; I am a layman—it is one thing to say that we need to make sure that they have care throughout their time in prison and when they go back to community. However, can the information obtained by medical services be used against them, for example, for parole hearings or for their treatment in custody? Do you know the difference that I am trying to get to?

CHAIR: Does it extend the penalty for them if they are disclosing that sort of medical information to their doctor? Can they be further penalised?

Mr Humphreys: I will hand over to my colleague for that, but as a general comment the purpose for sharing health information is to facilitate the prisoner's health and wellbeing. Separate to the legislation, we have an MOU with Queensland Health in relation to information sharing. As you could imagine, Queensland Health are quite firm on this point that information they provide to us is to be used in relation to the prisoner's health and wellbeing and not for other reasons. That is a requirement of the MOU and we certainly respect that. Ms Hutchins, do you have anything to add?

Ms Hutchins: An important note is that the bill enables QCS officers to share with Health; there is no reciprocal amendment in the bill. It is also QCS's information that is being shared with Health. For example, upon a prisoner's admission there is a risk assessment done. There could be something in there from a mental health perspective that is shared with Health. Queensland Health, since 2008, has been responsible for delivering services in Queensland Corrective Services facilities. Prior to that it was Queensland Corrective Services.

Historically, the Act has not necessarily needed to contemplate this issue. However, over time, as Assistant Commissioner Humphreys raised, there have been coronial inquests. There have also been a number of practicalities of officers on the ground feeling disempowered to share information that they feel a health practitioner in Queensland Health should have. For example, there could be a major psychological stress such as a death in a family that Queensland Health may not know about

or a court outcome. Maybe the prisoner has received quite a negative outcome at court that day that they may not have been anticipating. In addition, there could be concerns about a deterioration in their health.

Officers have sight on prisoners all the time. They do pick up when a prisoner may not be their usual self or when they may be deteriorating and they should be able to clearly share that information. The other is, for example, their refusal to participate in a drug test or, as raised earlier, for example, diversion of medication. That would not be used against the prisoner. That is for Health to be able to have an appropriate conversation with the prisoner about their health and wellbeing.

Mr SULLIVAN: I want to direct a question to the Youth Justice team. Could you explain to us a bit of the context around the requirement for temporary youth detention centre employees? What does that go to and why is it included in the bill, from a practical point of view?

Mr Hall: It is broadly similar or very similar—it may even be the same; my memory is stretching now—as the provision that was enacted for COVID and that we used in August 2020 when pretty much the entire cohort of Brisbane Youth Detention Centre staff were quarantined. We brought in staff from our other detention centre at the time, other staff from elsewhere in the department with some experience in detention centre operations and we also brought in people from outside.

The trigger is a declared emergency under one of those other three or four Acts mentioned there. It has to be something external and not just something internal so to that extent it is outside our control. The second part of it is that it has to be reasonably necessary to maintain security. The chief executive has to be satisfied that the 'appointment is reasonably necessary for the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres'. In other words, we have to not be able to cope with our existing staff cohort.

Mr SULLIVAN: On that point, from recollection you cannot turn to your colleagues in the QCS because you need to be authorised under the Youth Justice Act; is that right? Custodial officers do not necessarily have the same automatic right or the same powers to transfer to youth justice.

Mr Hall: The way it works is that the definition of a 'detention centre employee' under the Youth Justice Act, which is the category of staff who are able to use certain powers subject to certain safeguards, applies to a Public Service employee whose duties are carried out in a detention centre. Technically, if we brought across, with their agreement, Corrective Services staff who are Public Service employees then, by virtue of the fact that they are Public Service employees carrying out duties in a youth detention centre, they would become detention centre employees, which then triggers those powers but also responsibilities under the Youth Justice Act.

We could bring in other staff to do administrative tasks in a detention centre and there is no approval or anything needed for that. If we are bringing in people to carry out frontline tasks that involve interactions with children and they need those powers and we expect those responsibilities and safeguards to apply to them, then if we bring them in and they are already Public Service employees we do not need to appoint them under these provisions. We still do need to give them, as quickly as possible, the necessary training and to have them rostered on to the—

Mr SULLIVAN: Workplace health and safety and all the other things.

Mr Hall: Yes. For example, a detention centre employee is not allowed to use force unless they have undergone certain specific training about using force in a youth-specific environment. We will put them through that training. We will also have them working with and supervised by experienced detention centre staff we would have from that centre or pulled in from elsewhere.

The purpose of this provision is to enable us to put people in those positions who are not Public Service employees. It is really a practical measure. The kind of scenario we have in mind is we are struggling to find the right people with the right skills and experience and we might get an offer from an interstate youth justice agency to bring in 50 of their staff and they can have them here the next day. The industrial aspects of employing them under the Public Service Act when they have employment elsewhere we just think adds a whole area of complication and difficulty that would take time to resolve. This enables us to cut through all of that. We would still have to give them the training. We would still have to negotiate with their employer things like workplace health and safety, industrial relations, discipline, codes of conduct and all that sort of thing. It just takes out one complication that we think will be very important in an emergency when we need to act quickly.

Mr O'ROURKE: My question is directed to Assistant Commissioner Humphreys. You touched on this earlier. Throughout the day we have heard from a number of submitters around the reviewing of prisoner security classifications. I have a practical question. Why are we moving from an annual review to a review every three years or when asked? Is there a reason for that?

Mr Humphreys: In general, what we are aiming for with this framework is flexibility. We are trying to do that in a few different ways. Currently, the Act has baked into it, for want of a better term, three classification levels. One of those we consider to be somewhat redundant, which is the maximum security classification, because there is another provision that requires that a maximum security order is made for entry to a maximum security unit. We are proposing to remove that classification.

We are trying to introduce subclassifications to provide a much greater degree of flexibility in terms of how we manage prisoners. As part of that, we are trying to get to a point where we are not doing reviews on a routine basis but in a more dynamic way in response to specific events, whether positive or negative. This is ultimately all about, as far as possible within the correctional environment, individual management of the prisoners concerned. I will ask my colleague to elaborate on that.

Ms Hutchins: An important element of prisoner security classification is the impact that it has on their management decision. For QCS, the management of prisoners according to their risk is an inherent feature of our environment. Prisoner classification relates to a prisoner's risk within the closed correctional environment and it is an important management tool. However, currently, classification is used as one element to determine a prisoner placement decision, hence the move to the 'high' and 'low' because in Queensland now we only have a high security facility or a low custody facility. In addition, it is relevant in considering the level of escort that is required when a prisoner is leaving the centre. It could in future be used and incorporated into case management and planning. However, in Queensland that is currently the environment in which classification is actively used.

CHAIR: It is literally only 'low' or 'high' and 'maximum' is its own—

Ms Hutchins: Yes, and they are quite distinct. 'High' is assigned to a prisoner requiring a high level of supervision and highly structured routines within the closed correctional environment to ensure centre security, appropriate behaviour and to maintain prisoner wellbeing. For example, this could be a male prisoner admitted to a facility for detention on remand for an offence and not yet serving a term of imprisonment for another offence. In that situation, a court has determined that bail is inappropriate so it is appropriate that they are going to be housed in a secure environment, at least initially—sorry, not initially, that is appropriate; for a prisoner serving an initial portion of a lengthy period of imprisonment; for a male prisoner who has been sentenced for further violent offences; for a prisoner who is subject to extradition or immigration removal due to the risk of an escape; or a prisoner who has been convicted of an escape or attempting to escape.

'Low', on the other hand, is assigned to prisoners requiring limited direct supervision within the closed correctional environment, considered not to be an escape risk and assessed as minimal risk of causing harm to the community. This may include short-term prisoners who have been sentenced or those who are nearing release from lengthy sentences who have a demonstrated pattern of positive behaviour within the correctional environment. It is also important to note that female prisoners are considered for 'low' upon admission where possible, both in a classification sense and a placement perspective. Also, there is an existing restriction under the Act, which I think the Queensland Human Rights Commission noted in their submission, under 68A that prohibits certain prisoners being placed in a low custody facility currently.

CHAIR: At the moment there is 'low' and there is 'high' and there is nothing in-between.

Ms Hutchins: Yes.

CHAIR: It is fair to say that the subcategory system is going to enable you to have a more nuanced approach to how you risk assess each prisoner. It will assist in how you determine their management plans and management decisions. Your response to us is really clear in terms of those things that would escalate somebody to a higher risk. What are the events that trigger looking at somebody coming down the scale? I would be keen to understand what that looked like.

Ms Hutchins: I can extrapolate on a prisoner who is near the end of a lengthy sentence and who is not otherwise captured by section 68A. Section 68A captures prisoners with a life sentence or conviction for sexual offences. In QCS's day-to-day case management of a prisoner, they could demonstrate positive engagement with a program and positive behaviour. They could be nearing the end of their sentence. Particularly for a lengthy sentence we acknowledge that it is appropriate, if a prisoner is not demonstrating a high risk, that placement in a low custody centre does support appropriate transition back into the community. It is not always considered an appropriate risk, however, that they are placed there but that is an example.

I think the other context that could help is that there are approximately 7,000 prisoners who have high, 1,000 prisoners who have low, and about 40 who have a maximum security classification. For our staff on the ground in centres it does not really give them much in terms of escort, for

example—risk of escort, how many staff go on escort, the level of accoutrements that should be going on an escort—just a plain high security classification in itself does not assist staff management in the best way possible as well as identify opportunities to have more meaningful conversations with a prisoner. If a prisoner is coming up for their annual classification review and nothing is changing, it can be frustrating for the prisoner as well as staff.

CHAIR: A more effective way of operating facilities that also can hopefully build in efficiencies in how facilities operate. My final question relates back to the review. Obviously there will be some sort of review process that dictates what subcategory they fall into and it is more geared to being event based. A prisoner can request a review, however, that is subject to refusal. What could the reason be for any refusal to review?

Mr Humphreys: For instance, if it has already been recently reviewed or there has been no change in the prisoner's behaviour, in that case we would probably—I think quite reasonably—refuse to undertake a review because it would be unnecessary and—in fact, I hesitate to use the word perhaps vexatious—in terms of repeated requests for a review. I might also add that one of the features of the framework we are trying to introduce is the capacity for multiple subclassifications. Currently we are effectively running a binary framework where you are either high or low, but when it is developed the new framework will allow multiple subclassifications to be assigned to prisoners.

CHAIR: Which could hopefully have benefits in terms of improving behaviour and hoping to improve the risk situation that might come with that.

Mr Humphreys: Yes, and it will certainly enable a much more individualised approach; for example, someone in a secure facility with a high classification with one or more subclassifications assigned to them as well which, taken as a whole, might be quite an individual classification that is unique to that person and not just a single high classification. In that sort of situation where you have multiple subclassifications then that could be quite a dynamic process in terms of review because some of those subclassifications may persist and some of them might be put on for a temporary period of time in response to a particular need.

Ms Hutchins: In addition, it could provide more context to the board when they are considering a prisoner's parole application. Currently, given the volume, high or low in itself does not necessarily provide the board with much context to that person's behaviour, their risk, the criteria they need to satisfy when considering a parole application; however, the opportunity to have potentially multiple risk subcategories within the high and low framework does allow for some greater context to what is going on with that person.

CHAIR: Finally, everything that will be subject to regulation if this Act is passed will be covered by the Human Rights Act in every sense. Some submitters have raised concerns that human rights might not be considered. I have seen in the response that that will be the case. Can you confirm that the Human Rights Act will play a very important role in any formation of regulation as a result of this?

Ms Hutchins: The Human Rights Act requires that. The agency will be considering it anyway, but the Act requires it and a certificate is required to accompany any regulation amendment.

CHAIR: Are there any further questions?

Mr BOOTHMAN: May I ask one more question, please?

CHAIR: Certainly.

Mr BOOTHMAN: My question goes back to comments made by the Queensland Network of Alcohol and Other Drug Agencies. Sean Popovich mentioned his concern about the lack of resources when it comes to prisoners with programs and reintegrating them back into society. I want to hear the department's comments about those comments from Mr Popovich.

Mr Humphreys: I think it is fair to say that we certainly aspire to a high level of program delivery within the normal constraints of a facility. I take the submitter's concerns about the level of program delivery. Having said that, there are certain criteria around programs and when they are most effective. For example, requiring a prisoner to undertake a program they do not want to do or that they are not ready for is not going to be particularly useful in terms of their offending behaviour. From a rationing perspective, it has been proven that programs are most effective when they are delivered to those at highest risk rather than lowest risk. You do not necessarily get the benefit of a program generally if it is not targeted to people. I will ask my colleague to add a bit more about drug and alcohol programs specifically.

Ms Hutchins: Queensland Corrective Services does deliver a range of evidence-based substance abuse rehabilitation programs, including short-term desistance programs through to high-intensity interventions. Substance abuse interventions are delivered both internally via Queensland Corrective Services staff and externally by community-based providers.

Substantial funding has been allocated to expand delivery through the utilisation of community-based providers. In response to recommendations of the *Queensland Parole System Review*, culturally specific substance misuse interventions, for example, have been developed for First Nations prisoners and offenders and are delivered by a First Nations organisation. Substance misuse interventions tailored specifically for women are delivered in all women's centres with the exception of the low-risk Helana Jones Centre. Individual substance abuse counselling sessions are also delivered in the community by contracted external service providers. During 2021—22 there were over 3,000 completions of substance misuse interventions in custody and in the community, including over 600 completions in higher-intensity substance misuse programs.

CHAIR: Do you have anything further, member for Theodore?

Mr BOOTHMAN: No, Chair.

CHAIR: Thank you very much for attending today, your time responding to witnesses' points and queries from the committee. It has been extraordinarily informative. We have taken one question on notice. You are going to go away and see what statistics you can provide around staff lost time as it relates to assaults in facilities. If we could get that by close of business Friday, 27 January 2023, that would be fantastic. Thank you for the information you have provided. Thank you to our Hansard reporters, secretariat staff and the parliamentary broadcast staff for their assistance. A transcript of these proceedings will be available in due course. I now declare this public briefing closed.

The committee adjourned at 2.53 pm.