Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022

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Submitted by:	Queensland Network of Alcohol and other Drug Agencies (QNADA)
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22 December 2022

The Honourable Kim Richards MP

Chair, Education, Employment and Training Committee

Parliament House

George Street Brisbane QLD 4000

eetc@parliament.qld.gov.au

Dear Ms Richards,

Thank you for the opportunity to provide a submission on the *Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022*. The Queensland Network of Alcohol and other Drugs Agencies (QNADA) submission is attached.

QNADA represents a dynamic and broad-reaching specialist network within the non-government alcohol and other drug (NGO AOD) sector across Queensland. We have over 55 member organisations, representing the majority of specialist NGO AOD providers. This submission is made following consultation with QNADA members.

QNADA would be pleased to appear as a witness to the inquiry or discuss any aspect of this submission in more detail. Please don't hesitate to contact me at [redacted] or by calling 07 3023 5050.

Yours sincerely

Rebecca Lang

CEO

Submission on the *Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022*

December 2022

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). Its' content is informed by consultation with QNADA member organisations providing treatment and harm reduction services across Queensland, as well as a review of relevant research and reports.

It considers aspects most relevant to the work of QNADA and its members, which can be substantiated with additional evidence and research if required. Many of our member services support people who have previously been in, or are in, correctional centres or youth detention facilities which provides us with a clear understanding of how any proposed legislative amendments may be implemented or operationalised across Queensland.

Modernising the emergency response framework

While acknowledging that this amendment is intended to provide greater responsivity in the event of major disasters, such as floods, fires and pandemics and includes maximum timeframes for a declaration to be made,[1] explicit protection should be included to ensure that a person's right to access health care, including alcohol and other drug treatment and harm reduction services, is not limited or delayed.

While safeguards have been included to require that reasonable steps be undertaken to consult with the Commissioner of the Queensland Police Service, the Commissioner of the Queensland Fire and Emergency Services, the Chief Health Officer and/or the Chief Executive of another department (dependent on the emergency), and the declaration requires Ministerial approval, the extent to which the requirement to ensure continuity of access to health care services should be a factor in this decision-making is unclear.[2]

This is problematic, as while the declaration is in force the amendments provide the Chief Executive with additional powers such as the right to:

- restrict any activity in the facility,
- restrict access to the facility to any person,
- isolate people in detention, and/or
- limit or withhold privileges.

While the Statement of Compatibility notes that the amendments to the Corrective Services Act may result in disruption to a prisoner's access to legal services it does not consider the right for people to have access to health services, and how the withholding of timely access to health services impacts their human rights and treatment outcomes.[3]

[1] Including 7 days for an emergency relating to a risk to a person's health, 14 days for an emergency that relates to a disaster that threatens a facility, 21 days for an emergency that relates to a public health emergency, and the existing provision of 3 days for all other emergencies.
[2] Notably factors to be considered under the Youth Justice Act include the purpose for which the place is ordinarily used, compliance with the youth justice principles and the human rights of detainees and the broader community, facilities at the site, planning considerations that might apply to the site, the ability to deliver or procure specialist programs and services, and any impact on the local community.
[3] Specifically, consideration has only been given to the impact of longer periods of isolation on prisoners and the extent to which this may limit a persons' right to protection from cruel, inhuman or degrading treatment.

As outlined within the *International Guidelines on Human Rights and Drug Policy*, the withholding of health services, including for drug dependence and pain relief, is considered a form of torture and all states are required to ensure that access to health care for people who use or are dependent on drugs in places of detention is equivalent to that available in the community.[4] This extends to ensuring that all persons deprived of their liberty have access to voluntary and evidence-based health services.

Relevant to the proposed amendments to the Youth Justice Act, it is specifically acknowledged that health and education programs and services delivered in these circumstances may not be of the equivalent standard of a permanent centre. While it is noted that existing oversight and complaints mechanisms will continue to apply, and that there is a positive obligation on the Chief Executive to deliver programs and services to the greatest extent practicable, access to alcohol and other drug treatment and harm reduction services within corrective services facilities and youth detention centres is already limited in Queensland.

Although there have been recent improvements to treatment and harm reduction services under the *Queensland Corrective Services Drug and Alcohol Strategy 2020-2025*, the presumption that current safeguards are working as intended, and any issues will be reported and acted upon, does not reflect existing barriers for people in making a complaint. In situations where an emergency declaration is in force, and where access, activity and privileges are restricted or withheld, these challenges are even greater. This is particularly concerning given that the final report of Taskforce Flaxton highlighted that 44% of people in detention surveyed reported that they has seen someone stopped from making a complaint, and 58% reported that they had witnessed someone abusing their position of power.[5]

Criminalising evolving behaviours putting corrective services facilities and youth detention centres at risk and the use of x-ray body scanners and other emerging technologies

The introduction of restricted area and unlawful use of drones offences as well as provisions to allow for the use of x-ray body scanners and surveillance devices seek to:

- address evolving behaviour that presents new risks to the safety of custodial facilities,
- maintain safety, and
- monitor threats within a closed correctional environment.

While it is not explicitly stated, it is clear that these amendments are (partially) seeking to reduce the supply of alcohol and other drugs into corrective services facilities. Without an equivalent focus on, and investment in, demand and harm reduction strategies they are unlikely to have any sustained benefits for people in detention centres or the community more broadly.

The International Guidelines on Human Rights and Drug Policy emphasise the need to ensure that alcohol and other drug treatment and harm reduction services in correctional facilities are delivered in conjunction with public health services to ensure continuity of care and access to essential medicines while entering and leaving places of detention, and transferring between institutions. This extends to needle and syringe programmes, opioid substitution therapies (OST) and the provision of

[4] International Guidelines on Human Rights and Drug Policy

[5] Crime and Corruption Commission (2018) Taskforce Flaxton: An examination of corruption risk and corruption in Queensland Prisons

naloxone (during detention and on release), as well as by ensuring that all health professions providing services in prison are professionally independent from corrective services.[6]

While there has been considered leadership in this area by Queensland Corrective Services recently, including through the introduction of HCV treatment to every correctional centre in Queensland and the roll out of OST in Correctional Centres, there are multiple areas that need further focus to ensure that people in places of detention have access to appropriate health services and to minimise current harms (eg injection related injuries and the transmission of blood borne viruses). This includes:

- increased capacity to treat Hepatitis C,
- new testing technologies (i.e. point of care testing),
- implementation of the full range of opioid substitution medications in all Queensland Correctional Centres,
- implementation of Naloxone to reduce drug-related deaths in custody and upon release,
- availability of condoms, and
- action on the introduction of needle and syringe programs.[7]

The rights of health practitioners entering correctional facilities also need to be better protected, including from unnecessary and invasive searches, particularly given that Taskforce Flaxton was clear in highlighting that one of the main corruption risks within these environments is correctional officers themselves.

Enhancing information sharing

QNADA notes the amendments to provide clear guidance to staff on their requirement to share confidential information with health providers to support a prisoner's care, treatment or rehabilitation and ensure appropriate safeguards[8] are in place. The protection against the requirement for any reciprocal information sharing by health staff is considered to be particularly beneficial in protecting a person's right to privacy. However, although it is noted that there may be some circumstances where seeking consent is impossible (such as when a person is unconscious) in all other instances, protections should be in place to uphold a person's right to consent to information about their health and well-being being shared.

For context, a substantial proportion of the people who access our member's services who are or have been in contact with the criminal justice system have complex histories of abuse and trauma, prior poor experiences with police and other statutory bodies, and have a general distrust of services (particularly for those who use illicit drugs). Indeed, the World Health Organisation recognises that illicit drug dependence is one of the most stigmatised health conditions in the world.

[6] International Guidelines on Human Rights and Drug Policy

[7] All of these actions are supported by previous commitments of the current Government, specifically through the Queensland Hepatitis C Action Plan 2019-2022, QCS Drug and Alcohol Strategy 2020-25, QCS Drug and Alcohol Action Plan 2020-21 and the Response to Queensland Parole System Review recommendations.

[8] Safeguards include that information sharing is limited to a health practitioner, there must be a belief that the information sharing is relevant to a person's care, treatment of rehabilitation, and decisions under this provision must be made with consideration of the HRA.

People who use drugs, experience stigma and discrimination in their daily lives, including from police, courts and corrective services staff. For this reason they need health services they can trust so that they can feel safe to disclose and it is paramount that this safety is not compromised by limiting people's right to privacy and confidentiality.