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

Submission No:	11
Submitted by:	Sisters Inside
Publication:	Making the submission and your name public
Attachments:	See attachment
Submitter Comments:	

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11 January 2023

Committee Secretary
Education, Employment and Training Committee
Parliament House
George Street
Brisbane Qld 4000

By email: eetc@parliament.qld.gov.au

Dear Committee Secretary,

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

Thank you for the opportunity to provide feedback on the Corrective Services (Emerging Technologies and Security) and Other Legislation Amendment Bill 2022 (the Bill).

About Sisters Inside

Sisters Inside is an independent community organisation that exists to advocate for the collective human rights of women and girls in prison, and provides services to meet the needs of women, girls and their families. Sisters Inside has over 30 years experience supporting criminalised women and girls. Our submission is informed by our years of work and our experience advocating for the human rights of criminalised women and girls.

Preliminary matter

Sisters Inside does not support the permanent reference to Corrective Services Facility rather than prison. In our view, this is not appropriate terminology and should be referred to as a prison. Throughout this submission we will refer to prison rather than Corrective Services Facility.

Criminalisation of people being in restricted areas within prison

Sisters Inside does not support the proposed amendment of s124 regarding the criminalisation of people in prison being in a restricted area. We are concerned that this proposed amendment is unnecessary, disproportionate and punitive. People in prisons are already punished within the prison system when they do not comply with the rules and regulations of the prison.

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In our experience criminalisation routinely leads to further criminalisation. It is clear that Queensland is a state of hyper-criminalisation which is at a significant cost to the state through spending on policing, the courts, and corrective services. This amendment is unnecessary especially given the current processes that are in place in regard to incidents and breaches within a prison, which includes being in a restricted area of the prison. Of particular concern is that a person may be charged with an offence for being in a restricted area and may also be breached for this incident in prison.

It is particularly concerning that women are further criminalised in prison and they may be punished twice for the same incident. We have observed that under s 124 (2) the prosecution must prove the person was given sufficient warning, however, a written notice should not be considered sufficient warning especially as many people in prison may be illiterate or culturally and linguistically diverse.

Use of X-rays body scanners, body worn cameras and other emerging technology

Continued use of strip searching

Sisters Insides does not support the continued use of strip searches in prison and the use of strip searching in all prisons should be removed immediately. Despite the technology available which renders strip searches obsolete, the Corrective Services Act still allows for the use of these invasive and traumatising forms of searches. The use of strip searches have already been found to be ineffective as in 2017 it was recorded that, women in Queensland were strip searched 16,258 times, with only 2% of searches resulting in contraband being found.[1]

Not only are these searches ineffective but a myriad of anecdotal evidence asserts that strip searching is extremely harmful for women.[2] The invasive nature of these searches causes women to refuse visits from family members (including their children). This further isolates them from the social networks essential to their post-release reintegration into the community and places them at heightened risk of recidivism.[3] These searches also breach s17 Human Rights Act 2019 Qld, which protects from being treated or punished in a cruel, inhuman or degrading way. A strip search is unnecessarily degrading, especially when there

[1] Data disclosed to Sisters Inside under RTI request 180931 (28 February 2018).

[2] Davis, A. (2003); McCulloch, J., & George, A. (2009); Human Rights Law Centre (HRLC). (2017).; Office of the Inspector of Custodial Services. (2019). Strip searching practices in Western Australian prisons. Perth: Office of the Inspector of Custodial Services; Sisters Inside. (2004).

[3] Sisters Inside. (2016). Submission to Independent Review of Youth Detention in Queensland. Brisbane, QLD: Sisters Inside.

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are more effective and less degrading alternatives.

The continuation of strip searches when other more effective and less degrading forms of searches are readily available is an unacceptable violation of the rights of women in prison. We assert that the use of strip searching in all prisons should be removed as a matter of urgency. It is clear that there is a variety of other alternative forms of searches such as X-ray body scanners which can be utilised as an alternative and should be implemented within the prison immediately.

Searches s173A(5)(a) (general search sch4 (2)(b))

We do not support the amendments to s173A. It is not necessary for corrective services officers to require a person to shake his or her hair vigorously, open his or her hands or mouth or be required to remove outer garments when X-Ray technology is available which can detect prohibited items. Further, it is unclear whether these amendments apply to children who may visit the prison.

We are concerned that should they apply for children that visit, this may deter visitors, especially children who may be visiting their parents in prison. In the past few years, we have seen that the circumstances for women in prison have significantly deteriorated as the pandemic has resulted in the loss of visitation and therefore, connection with family.

Information sharing powers

We do not support the amendments to s341 which allows for the disclosure of confidential information when it is relevant to the care, treatment or rehabilitation of the person. Incarcerated women are already subject to great violations of their privacy in prison. By allowing the disclosure of confidential information between an officer and a healthcare provider could impact the treatment that may be provided to a woman, or possibly bias the treatment provided.

For instance, a woman who may be suspected of diverting her medication may not get access to the necessary mediation she needs due to the concern regarding diversion. Queensland Corrective Services is not a healthcare provider and officers do not have the necessary healthcare knowledge or skills required. We are concerned that this information sharing removes what little privacy and dignity women in prison are afforded and sharing information that may negatively impact the treatment, rehabilitation or care of the person.

Updating security classification framework

Sisters Inside does not support the amendments to the prisoner security classification

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framework. Sections 124(4) and (5) require a mandatory high security facility for high security classification prisoners but discretionary facilities for low classification prisoners. This means that women who should be accommodated in a low security facility due to their low classification may be placed in high security facilities at the discretion of Queensland Correctional Services.

In our experience, many women with a low security classification are denied a transfer to a low security facility for varying reasons including having more complex medical needs. The effect of this is that women who should be given more rights and comforts in lower security facilities are denied these rights. As noted by Walter Sofronoff KC, being accommodated in a low security facility, with the potential for resettlement leave, is an essential part of ensuring the community safety.[4] Section 124 (5) should be amended so that if the chief executive classifies a person as low, the person 'must' instead of 'may' be detained in a low security facility.

Further, a mandatory high security facility for high classification prisoners ignores the fact that high classification does not necessarily mean high risk. In our experience, a large proportion of Aboriginal and Torres Strait Islander women are classified as high and will be disproportionately affected by these amendments. Further, Many women who are in prison and hold a high classification are not violent and never have been. In the Queensland Productivity Commission Inquiry into imprisonment and recidivism, it was found that Queensland has the lowest proportion of prisoners held in low security settings and that, on average, 92% of prisoners are detained in high security settings.[5]

Despite being classified as high security many women in fact pose lower risk in prison. Having a mandatory high security placement does not reflect the real risk of these women and risk assessment tools are problematic in themselves. Requiring people to remain in a high security environment is problematic as it does not prepare them for release and fosters institutionalisation. Section 13(2) (a) allows a review of classification after a minimum of 12 months after a request has been made. This period is too long to ensure a proper reflection of risk and should be amended to allow reviews more regularly to properly reflect their current standing. Further, the obligation to request a review lies on the person in prison who may not have the necessary knowledge or skills to be able to request a review on their own behalf.

Emergency declarations

We do not support the amendments to s271C relating to the additional powers during a

[4] Queensland Parole System Review (Final Report, November 2016) 19.
[5] Inquiry into Imprisonment and Recidivism (Final Report, August 2019) xxxviii, 388.

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declared emergency including the restriction of movement, refusal of entry by a person and isolation of persons in prison. In our experience during the pandemic women were subjected to significant isolation and we consider that these measures were at times disproportionate to the risk posed.

The isolation of persons within a prison for the purpose of medical segregation should be referred to as a form of solitary confinement. Solitary confinement and isolation are examples of violence in the prison system. Further, solitary confinement has been widely recognised as having severe and harmful effects, especially for people with pre-existing impairments or vulnerabilities. Even if a person is placed in isolation for short periods of time, it can cause serious psychological harm that may be irreversible. In our experience, solitary confinement causes serious, long-term harm to every woman.

Thank you for considering this letter. If you would like to discuss this letter further, please do not hesitate to contact me on (07) 3844 5066.

Yours sincerely

[redacted]

Debbie Kilroy
Chief Executive Officer
Sisters Inside Inc