



Submission to
**The Legal Affairs and Community Safety
Committee**
on the
Counter-Terrorism and Other Legislation Bill 2016

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Submitted by
The Queensland Greens

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The Queensland Greens do not support any further extension of police powers which would override legal due process and intrude on Queenslanders' right to privacy. We believe that current legislation gives the Queensland Police Service more than sufficient information and powers to prevent acts of terrorism, and that there is no need to further deprive Queenslanders of their civil liberties in order to provide for their safety.

We have a number of specific concerns with the contents of the proposed legislation:

1. The **information requirement** (Clause 28, section 8AE), as detailed in the explanatory notes to the bill, is inconsistent with the rights and liberties of individuals. The bill does not provide for judicial oversight of the police case to infringe on an individual's rights, requiring merely that the police commander be "satisfied on reasonable grounds" that a person *may* be in possession of important information. Such a system is quite clearly open to abuse, especially in the emotionally charged environment of an emergency.

We are also seriously concerned about the potential for police to legally require professionals to provide privileged information gained via their professional relationship. We note that legal professionals are exempted from this requirement, but the bill does nothing to protect information obtained via doctor-patient, counsellor-client or journalist-source relationships. The assurance of confidentiality is crucial to all these relationships, and if confidentiality cannot be guaranteed, these professionals will no longer be able to carry out their work effectively.

2. Clause 36 of the proposed bill would enable the Premier and the Minister to extend a terrorist emergency beyond the initial seven days, up to a maximum of 28 days by up to 7-day increments, and for the terrorist emergency to be extended further via regulation in 14-day increments. There is no upper limit on how many times the terrorist emergency may be extended via regulation, leaving open the prospect of a future government having the power to extend a terrorist emergency indefinitely. In order to avoid this possibility, the Queensland Greens believe that any decision to extend the duration of a terrorist emergency must be subject to judicial oversight.
3. Clause 42 of the proposed bill is inconsistent with Article 17(2) of the Universal Declaration of Human Rights, "*No one shall be arbitrarily deprived of his property.*"¹ Lowering the requirement for seizure from "the person intends to use the thing to cause harm" to "the person may use the thing to cause harm" renders the legislation so vague that seizure of property becomes completely arbitrary, as practically any object can potentially be used to cause harm. We believe that terrorist emergency officers should be required to demonstrate reasonable grounds for any seizure of property.

¹ United Nations, *Universal Declaration of Human Rights*, 1948.

4. Clause 54 provides protection from liability in relation to things done or omitted to be done by a terrorist, emergency commander, terrorist emergency forward commander, TERC commander, the commissioner or a deputy commissioner exercising the powers of the above commanders and an officer acting under any of the commander's instruction. The explanatory notes to the bill acknowledge that this proposal is inconsistent with the fundamental legislative principle that legislation should not confer immunity from proceeding or prosecution without adequate justification. We believe that officers who have these powers should continue to be accountable under the law, and we do not find the reasoning given in the explanatory notes to the bill adequate to justify overturning this fundamental principle, particularly given that this bill also enables the duration of the terrorist emergency to be extended indefinitely, and empowers the officers in question to commit fundamental breaches of human rights during this time. Indeed, we submit that this clause negates all the safeguards placed around the use of the information requirement and search and seizure provisions elsewhere in the bill. If officers cannot be held accountable for their actions during the period of the terrorist emergency, there is no incentive for them to abide by those safeguards.

5. Clause 5 will enable registered nurses, as an alternative to doctors, to examine at the prescribed intervals prisoners who are under safety orders, maximum security orders, criminal organisation segregation orders and separate confinement orders. We believe prisoners in the State's custody are entitled, like all citizens, to qualified medical diagnosis and treatment. While registered nurses are very competent and qualified in their field, having a qualified doctor's assessment and diagnosis is paramount to ensure the medical needs, including mental and psychological health, of such prisoners in the State's custody. The proposed changes to the Corrective Services Act 2006 may provide greater efficiencies but it will be at the cost of quality in the delivery of prisoner health services, and leave the State open to litigation in the event of incorrect or unqualified diagnosis and treatment.

In conclusion, the Queensland Greens submit that this bill, by further extending the powers of police and eroding the civil liberties of our citizens, increases rather than decreases the risk of terrorism. Our best defence against radicalisation of our young people is our robust democratic society which ensures all people are treated equally within the law and are assured of having their basic civil rights respected. Rather than dismantling the fundamental institutions of our society, we should be working to build trust between individuals and the police via increased investment in community-building initiatives such as the Police Liaison Officer scheme.