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SENSITIVE

17 April 2020

Mr Peter Russo MP
Committee Chair
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000

Via email: lacsc@parliament.qld.gov.au

Dear Mr Russo,

Corrective Services and Other Legislation Amendment Bill 2020

Thank you for your invitation to provide a submission to the Legal Affairs and Community Safety Committee's inquiry into the *Corrective Services and Other Legislation Amendment Bill 2020* (CSA Bill).

The Crime and Corruption Commission ('CCC') welcomes the amendments to the following sections of the *Corrective Services Act 2006* (CS Act) and believes that they adequately address the applicable recommendations in the CCC's Taskforce Flaxton report:

- Clause 17 – Amendment to section 114 (Breach of discipline constituting an offence) – Recommendation 32(b)
- Clause 19 – Amendment to section 140 (Forfeiting seized thing) – Recommendation 18
- Clause 44 – Amendment to section 294 (Appointing inspectors generally) – Recommendation 30(a)

The CCC also supports the addition of Part 9A 'Alcohol and Drug Testing'¹ into the CS Act, which adequately addresses recommendation 18 of the Taskforce Flaxton report by permitting random alcohol and drug testing of Corrective Services Officers and recruits.

The CCC makes no further submissions with respect to clauses 17, 19, 44 and 48 of the CSA Bill.

However, the CCC makes the following submissions with respect to recommendations 20, 26 and 33 of the Taskforce Flaxton report, which have not been addressed in the CSA Bill but would require amendments to current sections or the insertion of new provisions if adopted.

¹ Clause 48 – sections 306A to 306Q *Corrective Services and Other Legislation Amendment Bill 2020*.

Recommendation 20: Section 173 *Corrective Services Act 2006* – Broader Powers to Search Staff

The proposed amendments to section 173² of the CS Act are supported, however it is recommended that the powers to conduct searches could be further clarified. The section could include a requirement that a person be subject to a search under powers similar to section 29 of the *Police Powers and Responsibilities Act 2000*. Another approach would be to outline a non-exhaustive list of the types of powers that may be carried out on staff members as done in New South Wales.³ This approach would give improved clarity over the extent of powers intended to be given to correctional officers.

Section 253J(1) of the *Crimes (Administration of Sentences) Act 1999* (NSW) stipulates that a correctional officer may direct a person to do any or all of the following:

- a) Submit to electronic scanning
- b) Empty their pockets
- c) Remove any hat, gloves, coat, jacket or shoes
- d) Empty their bag or open anything that has been left in their vehicle
- e) Make available their locker or office for inspection
- f) Direct them to produce anything that has been detected or seen during electronic scanning
- g) Assist a child or intellectually impaired person to co-operate with the search (if applicable)

Recommendation 26: Implementation of Electronic Mail Process

The CCC's Taskforce Flaxton report highlighted that contraband remains an issue in Queensland prisons and that other jurisdictions have implemented a process to allow prisoners to receive emails.

The Alexander Maconochie Centre in the Australian Capital Territory is an example of a correctional facility in Australia that allows prisoners to use email on legislative authority. At this facility, authorised prisoners can use designated computers to email up to five approved contacts. Communications to prisoners through email are both monitored and recorded by the Director-General under section 103 of the *Corrections Management Act 2007* (ACT).

New Zealand also allows prisoners to receive emails from friends and family. Their procedure is quite different from the one adopted in the Australian Capital Territory. The guidelines for prisoners receiving emails is contained in the Prison Operations Manual.⁴

Electronic mail is not an entitlement for prisoners in New Zealand and the conditions under which the Department of Corrections will receive emails and dispatch them to prisoners is subject to the conditions the sender agrees to. Each prisoner has their own email address to which friends and family may send emails. A prisoner cannot 'reply' to emails but there may be occasions when the prison needs to reply (e.g. when a prisoner has been released or transferred). Each prison has a staff member who operates the email inbox. That staff member is responsible for accessing the email inbox each working day, reading all the incoming emails, printing off those that meet the acceptance criteria and placing those emails in the internal mail bag for delivery to the prisoner. The incoming email is then deleted. At no stage does a prisoner have access to the email inbox.

The CCC supports the full implementation of recommendation 26 with the intention of reducing the amount of contraband entering prison facilities. It is further recommended that new provisions dealing specifically with electronic communication be inserted in the Act to address the monitoring of such communication. These amendments could mirror sections 50 and 51 of the CS Act which regulate phone calls and personal video conferences respectively.

² Clause 20 – Amendment of s 173 (Search of a staff member) *Corrective Services and Other Legislation Amendment Bill 2020*.

³ Sections 253I and 253J *Crimes (Administration of Sentences) Act 1999* (NSW).

⁴ https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Communication/c.07_email_to_prisoner

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Recommendation 33: Establishment of an Independent Inspectorate of Prisons

This recommendation was not addressed in the CSA Bill. The CCC identified the need for the implementation of an independent inspectorate model to provide adequate oversight of QCS functions and activities thus, decreasing the risk of corruption in Queensland correctional facilities.

The CCC maintains the importance of the implementation of recommendation 33 to ensure that the QCS prison inspectorate model meets the recognised international standards of independence, performance and transparency.

Thank you for the opportunity to comment on the Bill. Please contact my office directly to discuss the submission further if required.

Sincerely,



A J MacSporran QC
Chairperson