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Sisters Inside Inc. is an independent community organisation which exists to advocate for the human rights of women in the criminal justice system

Submission Regarding the *Corrective Services and Other Legislation Amendment Bill 2020 (Qld)*

lacsc@parliament.qld.gov.au

22 April 2020

To the Committee Secretary,

Sisters Inside Inc welcomes the opportunity to provide a written submission regarding the *Corrective Services and Other Legislation Amendment Bill 2020 (Qld)*.

Sisters Inside is an independent organisation that advocates for the human rights of women and girls in prison. For 28 years Sisters Inside has been offering support and services to criminalised and imprisoned women, girls and their families while they are in prison and once they are released.

SUBMISSIONS

**Restriction on eligibility for transfer to low custody facility
Section 68A**

Sisters Inside does not support this new provision, which makes a person in prison ineligible for transfer to a low custody facility if they have been convicted of a sexual offence, murder or are serving a life sentence.

Decisions about security classification and custody placement should be determined on a case-by-case basis. This section makes it impossible for a person to be afforded an appraisal of their individual circumstances and their actual potential for risk.

Inserting this section does not increase safety. There is already the power to deny a transfer to a low custody facility if necessary. This provision denies that an individual may be more than the sum of their past actions.

**Searching and Drug and Alcohol Testing
Section 173 and Ch 6, pt 9A**

Sisters Inside supports the amendments to allow greater searching and drug testing of corrective services persons. Our staff have heard consistent reports of drugs being smuggled into prison by QCS staff.

Dealing with amounts received for prisoners in particular cases

Section 311A

Sisters Inside does not support the insertion of s 311A(1)(ab), creates a presumption that trust fund deposits will not be received if 'the donor of the amount was released from a corrective services facility within 1 year before the chief executive received the amount.'

There is no reasonable justification for this presumption. It discriminates against people who have been in prison by assuming that they are untrustworthy. It will also have a discriminatory effect on people in prison who have a criminalised family and may not have anyone else to send them money. For women in prison, often the money sent to them is essential to enable them to pay for phone calls and stationary to contact their children.

S311A(3)(1)(aa) and s (3)(3A) introduces the category of 'approved donor' but does not define this term. To ensure clarity and consistency the bill should include a definition and a litmus test for determining whether a donor should be deemed approved or not.

At the Legal Affairs and Community Safety Committee public briefing for this bill (30 March 2020), Chief Superintendent Humphreys stated that practice directives for staff would be amended in line with the bill. Given that the purpose of this amendment is to prevent 'prisoners receiving money through illicit activity including drug payments'¹ this objective should be stated clearly in the Act. In its current form the bill does not sufficiently circumscribe QCS' power to deny trust fund donors at will.

Serious Assaults

Criminal Code s 340 Serious Assaults

The bill clarifies that the maximum penalty for a serious assault does apply to a prisoner who seriously assaults a working corrective services officer under section 340(2) of the Criminal Code.

We take this opportunity to highlight the ways that the prison environment and QCS protocols create circumstances that are likely to precipitate s 340 violating behaviours. This should be taken into account by the legislators.

S 340(2)(a)(i) applies where the prisoner bites or spits on the corrective services officer or throws at, or in any way applies to, the corrective services officer a bodily fluid or faeces.

In the majority of instances, biting, spitting and throwing bodily fluid or faeces only occurs when a woman is experiencing an acute psychosocial or cognitive disability. This behaviour is most likely to happen when a woman is in, or being moved to, the detention or safety unit, because this is the protocol for managing women in crisis in prison.

Women who are at risk of self-harming, deemed a risk to others, or whom other prisoners have assaulted can be placed on safety orders in the 'safety unit' for up to a month (consecutive orders are common).² In 2018, Human Rights Watch found that prisoners with psychosocial or cognitive disabilities are disproportionately represented in all solitary confinement regimes (maximum

¹<https://www.parliament.qld.gov.au/documents/committees/LACSC/2020/CorrectiveServices2020/trns-30March2020-pb.pdf>

² *Corrective Services Act 2006* (Qld) s 53.

security units, detention or punishment units, and crisis, observation, or safe units) across the 14 Australian prisons they visited, including Queensland prisons.³

While in the detention/safety unit a woman is isolated for 22 hours a day with no activities. This claustrophobic, unhealthy environment further strains interactions with staff and health professionals.

We have seen footage of women in the detention/safety unit being pinned to the ground by four or more staff, restrained and spit-hooded. These safety protocols are stressful and disempowering for women prisoners, particularly those with a history of sexual or physical violence. We submit that these protocols exacerbate mental health distress and are likely to contribute to a woman biting, spitting or throwing bodily fluids because of the extreme distress caused.

Women who are at risk of self-harm or suffering from an acute psychosocial disability episode should be treated at a hospital; they should not be aggressively restrained and moved into solitary confinement.

The women in prison whom we know of whom have been charged under s 340 have had psychosocial or cognitive disabilities and been in the detention/safety unit at the time of the charged behaviour.

We recommend that psychosocial and cognitive disabilities be explicitly taken into account when charging or sentencing a person under s 340.

We recommend that extensive personal protective equipment ('PPE') be provided to staff working in prisons; this should include facemasks, goggles, gloves and plastic face shields. In all circumstances where a woman might be spit-hooded, the staff should instead wear appropriate PPE.

In all circumstances where there is deemed to be a reasonable risk of spitting, biting or throwing bodily fluids or faeces the staff should apply PPE before interacting with the woman. If the PPE prevents the biting, spitting or bodily fluids from making contact with the staff member, the woman should not be charged under s 340.

We thank you for the opportunity to make this submission.

Yours faithfully,



Debbie Kilroy
CEO

Sisters Inside Inc.

³ Human Rights Watch, *"I Needed Help, Instead I Was Punished" Abuse and Neglect of Prisoners with Disabilities in Australia* (February 2018, Report) 42.