




Speech By
Jonty Bush

MEMBER FOR COOPER

Record of Proceedings, 22 June 2022

INSPECTOR OF DETENTION SERVICES BILL

 **Ms BUSH** (Cooper—ALP) (4.13 pm): I rise to support the Inspector of Detention Services Bill. I start by acknowledging and thanking the secretariat, Hansard, and my parliamentary colleagues on and the chair of the Legal Affairs and Safety Committee. I also acknowledge those who made submissions to the hearings, both in writing and presented to us in person.

This bill provides for a new role of the Inspector of Detention Services to provide independent oversight over places of detention, specifically, prisons, community correction centres, work camps, youth detention centres and watch houses. Independent inspectors in places of detention are very important and the committee heard from submitters who have advocated strongly for this. Independent inspectors ensure accountability and transparency in the way that those places are managed. They are a set of independent eyes and ears in places that are often closed off, to some degree, to the public. The purpose of the inspector is to promote the improvement of places of detention and detention services, with a focus on ensuring the humane treatment of those who are detained and the prevention of harm, including torture and cruel, inhumane or degrading treatment.

This bill comes as part of the broader government response to recommendations in a number of reviews, including the Independent Review of Youth Detention; the Queensland Parole System Review; Taskforce Flaxton, which was an examination of corruption and corruption risks in Queensland's corrective services facilities; the Queensland Productivity Commission's report on its inquiry into imprisonment and recidivism; and the Royal Commission Into Institutional Responses to Child Sexual Abuse. Importantly, the bill represents this government's continued commitment to upholding human rights in Queensland.

The inspectorate will not be subject to direction by any person about the way in which it performs its functions. The bill provides that the inspector will provide independent oversight through a system of regular inspections and reviews of places of detention and detention services. There will be independent and transparent reporting to ensure accountability and transparency in the way that places of detention and the people detained are managed and the inspector will adopt a preventive focus, preventing harm by examining the systems and experiences of people who are detained. It is intended that the inspector will consider the operation and management of facilities and the treatment and conditions of people in light of the national and international materials that establish best practice.

Under the bill, the Queensland Ombudsman will be the Inspector of Detention Services and staff from the office of the Queensland Ombudsman will support the exercise of the inspector's functions. The inspector, like the Ombudsman, will be functionally and operationally independent from government and will be appointed as an officer of the parliament.

There were 21 submissions received from representatives across the government and non-government sectors. All of the submissions received indicated support for the establishment of an inspector in Queensland. However, a number of submitters raised concerns about the appointment

model proposed under the bill and the resourcing of the inspector. For example, the Queensland Human Rights Commission submitted—

The Commission notes the synergies between the functions of the proposed Inspector and the Ombudsman's current functions, and that the Ombudsman satisfies many of the principles set out in OPCAT for an NPM National Preventive Mechanism. This includes being functionally independent from the executive government, providing safeguards from reprisal and powers to regularly examine and visit places of detention.

Nonetheless, the experience of other jurisdictions emphasises the need to balance these new functions with the existing role of the Ombudsman. For example, the Tasmanian Ombudsman, who is also the Custodial Inspector, has reported that he can only dedicate ten per cent of time to the inspectorate, and long delays between onsite inspections and publication of reports due to inadequate staffing.

A number of stakeholders noted that the dual appointment model proposed under the bill was most similar to the existing Tasmanian model and expressed to the committee the importance of the QO giving sufficient resourcing and attention to this function.

In response to stakeholder concerns about the appointment of the Queensland Ombudsman as the inspector, the department stated—

The Bill establishes the Inspector as a separate and functionally independent statutory appointment with distinct functions and powers. The Inspector will report separately to Parliament on its operations, and following inspections and reviews.

The Bill provides that when performing functions of the Inspector, a staff member will not be able to also perform delegated functions under the Ombudsman Act ... Further, the Bill provides that when performing functions of the Inspector, the officer is subject to the direction of the Inspector and not the Ombudsman ...

The committee noted that the department has advised that the Queensland government has set aside funding to ensure the inspector can fulfil the functions set out in the bill. In addition to this funding allocation, the bill establishes the inspector as a separate and functionally independent statutory appointment that will report separately to parliament on its operations.

A key function of the inspector will be to conduct inspections of places of detention within its scope and review detention services provided in those places of detention. The bill will provide for mandatory inspections of particular places as well as allow the inspector to inspect a place of detention within scope at any time. These visits can be either announced or unannounced.

The inspector will also be able to review a detention service at any time, including the transport of detainees between places. It will not be the role of the inspector to investigate specific incidents such as riots, deaths or escapes. These will remain the responsibility of existing internal and external oversight bodies. The bill provides that the inspector may refer matters to an appropriate body for further investigation.

Under the bill the inspector will be empowered to refer matters to the relevant minister who has responsibility for the place of detention. This is for cases where the inspector reasonably suspects that there is or has been a serious risk to the security, control, safety, care or welfare of a detainee, or a detainee is or has been subject to cruel, inhumane or degrading treatment.

In order to carry out the inspector's functions, the bill provides the inspector with broad powers to do all things necessary to fulfil this preventive, proactive and independent mandate. This includes the power to take any equipment to a place of detention; enter a place of detention at any time; access any information, including documents, about the place of detention or services provided to people detained, including health information; require answers to questions; speak to detainees privately; and require reasonable help for a review or inspection. The inspector can also report on any issue that it considers to be in the interests of any person or to be in the public interest. These reports may include advice or recommendations from the inspector.

This bill continues to demonstrate the government's commitment to human rights and will ensure that the oversight, accountability and transparency of our places of detention and the treatment of detainees are strengthened. I commend the bill to the House.