




Speech By
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MEMBER FOR CURRUMBIN

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INSPECTOR OF DETENTION SERVICES BILL

 **Mrs GERBER** (Currumbin—LNP) (3.48 pm): The Inspector of Detention Services Bill seeks to establish an independent inspectorate to promote and uphold humane treatment and conditions of people who are being held in detention, including prisons, community correction centres, work camps, youth detention centres and police watch houses. It is my sincere hope that the proposed bill will be effective in protecting detainees from harm and in particular encouraging rehabilitation. However, I am concerned about this government's track record. It has become very apparent that this tired, third-term Labor government is more concerned about how things look rather than how things actually are, because without proper planning, sufficient resourcing and true independence the establishment of this office may only check the box and give the appearance of making good on a policy that Labor took to the last election.

Crime is on the rise and the state government must start listening to our community and implementing real solutions with real funding. Part of that must include a focus on rehabilitation of offenders. If the Inspector of Detention Services is to be effective, it will need significant resources to do that. Considering the size of our state, the number of detention centres, the workload that is required and the potential to expand into other areas such as the movement of prisoners or people in detention from one place to another, the task for the inspector is a large one. Section 33 appoints the Queensland Ombudsman as the Inspector of Detention Services, utilising the existing offices and facilities of the Ombudsman to perform the role of Inspector of Detention Services. Adequate funding of the role was a key issue during the committee hearings. The vast majority of submitters were concerned that the inspectorate role would be another obligation lobbed onto the Ombudsman's office that it would have to do with existing resources. The Human Rights Commission informed the Legal Affairs and Safety Committee of the issue that this could pose, stating—

... there is a real risk that housing the inspector inside the Ombudsman's office will ultimately lead to those functions competing with the existing functions of the Ombudsman. I do not think there is any doubt about that risk. A separate line item would certainly help ... to mitigate that risk to some extent ...

To further prove this point, other submitters drew our attention to the Tasmanian model and the Tasmanian Ombudsman's struggle with its balance of functions and custodial inspector role. There it was reported that the Ombudsman could only dedicate 10 per cent of its time to the inspectorate role. As a result, there were long delays between onsite inspections and publication of associated reports. I do appreciate and understand that the Tasmanian Ombudsman holds some different responsibilities when compared with the Queensland Ombudsman. However, it is nevertheless clear that in order to fulfil the obligations of the bill and the intent the inspector will need adequate resources and staffing. It is pleasing to hear from the minister's contribution that the funding will be \$9.38 million over four years and \$2.97 million per annum ongoing with the engagement of up to an additional 16 full-time-equivalent staff for the office of the inspector to support the Ombudsman in its inspectorate role. Funding and resourcing will be key to the inspector operating effectively.

It must be noted that the vast majority of submitters did not support the dual model and mainly supported the creation of a separate inspectorate. That was the evidence of many of the submitters, including Sisters Inside, knowmore and a number of other organisations. Mr Steven Caruana, who previously worked for the inspector of prisons in Western Australia and the Commonwealth in a similar role, made a compelling submission to amend the bill. He said that appointing the Ombudsman does not align with the acceptance of recommendations arising from several past reports, including the reports of Mr Walter Sofronoff, the recently retired Chief Judge of the Court of Appeal. He advocated for a standalone independent statutory authority like the Western Australian Inspector of Custodial Services. Based on the public hearings, it is clear that the community would have preferred to see the Inspector of Detention Services as a standalone statutory body. However, the government is going to push on with the Queensland Ombudsman performing the role, and time will tell whether the government got this one right.

Another pretty serious concern among the stakeholders is the minimum requirement for inspections which has been called out for being far too low. The bill only requires an inspection once every five years, with the exception being youth detention centres at once a year. It is concerning that the minimum requirement for inspections is only once every five years. The average term of imprisonment in Queensland is 3½ years. This means there are a significant number of detainees and inmates who will never see an inspector come through the facility during their term of detention. If we look to other states, we can see higher expectations when it comes to minimum requirements. In the Australian Capital Territory, Tasmania and Western Australia, there is an expectation that an inspector visit prison facilities once every three years, and in the Australian Capital Territory it states a further step requiring new facilities be visited within two years of opening.

Why has our state Labor government set the bar so low? If it were serious about its commitment to uphold the humane treatment and conditions of people in detention, then surely it would require the inspector to come through a facility at least once during the average term of a detainee. To me this smacks of a government paying lip-service to its commitment, of a government more concerned with how things look rather than actually achieving the goal set out in the bill. I would encourage the state government to genuinely look at these concerns and to accept feedback from the Ombudsman regarding the level of funding and the support it will need to effectively maintain the position of inspector.

Throughout the committee process we also heard many stakeholders critical of the definition raise the need to expand the definition of 'detention facility' and whether transportation by police upon arrest should be included. In the Queensland Law Society's submission to the committee it wrote that, in its view, consideration should be given to expanding the range of places subject to inspections to better align with the Optional Protocol to the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment. Throughout the committee process, both in submissions and during public hearings, there was a lot of discussion around OPCAT—specifically, whether the bill sufficiently supports the convention.

The Prisoners' Legal Service noted during the public hearing that its key concern with the bill as it currently stands is the lack of acknowledgement of OPCAT and the aspects which it fails to comply with. While the bill closely aligns to the wording of OPCAT, it is not identical and a number of submitters have raised concerns as to why that should not be. There is also a lack of acknowledgement of OPCAT at all and the chair of the committee responded to these concerns by acknowledging a decision that OPCAT's implementation in Queensland is yet to be made. I also note that the minister has addressed this by stating in her second reading speech that Queensland will not make a formal commitment to implementing OPCAT until Commonwealth funding is secured, citing the significant cost implications in properly giving effect to OPCAT.

A further concern is that the bill does not allow for the inspector to investigate or respond to specific prisoner complaints or critical incidents such as riots. This was defended by the department in saying that the inspector's focus is on preventing harm through a system of regular reviews and inspections—regular reviews and inspections that will only happen once every five years, mind you. It is assumed that this role will continue to be carried out by the Queensland Corrective Services Chief Inspector.

It should also be acknowledged that while this bill focuses on the rights of prisoners we have many hardworking Queensland corrective services staff who are being put in danger every day. We have heard from a number of these staff about the assaults they have survived, the serious injuries that have been caused and the subsequent trauma that they have suffered. What is this government doing about that? The state government has failed to meet its targets, particularly in relation to assaults by prisoners against officers; the state government has reduced frontline service delivery for corrective

services, with the number of full-time-equivalent staff falling by two across the state; and our prisons remain overcrowded at 125.8 per cent and are becoming dangerous. This state government needs to do so much more to ensure the safety of corrective services officers as they go to work. This state government needs to do so much more to support them when incidents happen to ensure that it is a safe and healthy workforce.

As already stated in this debate, the LNP will not be opposing the bill. We will keep an eye on how it goes through the appropriate processes of the reports of the inspector and the estimates process. As I stated, we are concerned with the minimum requirement in relation to inspections of detention facilities. The bar has been set too low in that only one inspection is required every five years. If this state government truly was concerned with implementing the objectives of this bill, then I would have expected that bar to be a bit higher and more in line with WA, where an inspection happens at least once every three years, particularly considering the average term of a detainee is 3½ years, so that means that a detainee may not see an inspector during their average term of detention.

If the government truly was concerned with the objective of this bill in ensuring rehabilitation and ensuring that our correctional facilities are safe for the corrective services officers who work there, then I would think that it would raise that bar a little bit higher. We are pleased to see the funding that has been announced by the minister. We look forward to seeing the inspectorate continue in this role and will keep a close eye on the Ombudsman in the inspector role.