




Speech By  
**Hon. Leanne Linard**

**MEMBER FOR NUDGE**

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Record of Proceedings, 26 May 2022

### **INSPECTOR OF DETENTION SERVICES BILL**

 **Hon. LM LINARD** (Nudgee—ALP) (Minister for Children and Youth Justice and Minister for Multicultural Affairs) (5.20 pm): I move—

That the bill be now read a second time.

On 28 October 2021 the Inspector of Detention Services Bill was introduced and referred to the Legal Affairs and Safety Committee. I thank the committee members for their thorough consideration of the bill. I would also like to thank those stakeholders, organisations and individuals who made submissions to the committee and participated in the public hearing. I am pleased to inform the House that on 21 January 2022 the committee tabled report No. 21 and made one recommendation—that the bill be passed. I thank the committee for its support for the bill.

The bill before the House establishes the Inspector of Detention Services. It introduces the legal framework allowing for independent oversight of places of detention and detention services through a system of regular inspections and reviews. The Palaszczuk government is committed to protecting the human rights of all Queenslanders, including those in detention. That is why this bill is aimed at promoting and upholding the humane treatment and conditions of detainees and preventing harm to detainees. Importantly, this bill reflects the Palaszczuk government's commitment to establishing an independent inspector over adult correctional services and youth detention services in response to recommendations from several Queensland criminal justice system reviews. This government also decided to include oversight over police watch houses within the inspector's remit.

The inspector's role will be distinct from existing oversight mechanisms for places of detention due to its independence and system-wide focus to prevent harm to detainees. The bill includes provision for the inspector and oversight entities such as the Ombudsman and Public Guardian to communicate with each other and share information as appropriate to ensure efficient and effective oversight and to avoid duplication. The inspector will examine systemic themes arising from the experiences of detainees and recommend policy, practice or legislative changes to help improve the way places of detention and detention services operate and are managed. The inspector will monitor agencies' progress in implementing its recommendations and report directly to the Legislative Assembly following reviews and inspections. These functions will improve transparency and accountability.

The inspector will not investigate incidents such as riots, deaths or escapes and will not resolve individual complaints. These are functions already performed by other agencies. However, complaints made by individuals could be a source of intelligence to inform reviews or inspections of the inspector. To help achieve its purpose, the bill supports and enables people such as detainees and staff to speak openly to the inspector. Recognising the need to protect confidential information and the individuals who provide this information, the bill has limitations and safeguards on the use of confidential information.

I would now like to address several issues raised through the committee inquiry. While the submissions indicated support to establish an inspector in Queensland, some submitters raised concerns about the appointment of the Queensland Ombudsman as the inspector. The decision to

appoint the Ombudsman as the independent inspector was not one of compromise. Rather, it seeks to leverage the Ombudsman's established relationships in the detention environment and create synergies between the Ombudsman's existing functions and those of the new independent inspector.

The bill ensures that the functions of the inspector and the functions of the Ombudsman will be kept administratively separate, with officers having delegated powers and functions from either the inspector or the Ombudsman but not both. Separate resourcing will be allocated to ensure the inspector's effective operation. The inspector will report separately to parliament on its operations following inspections and reviews.

Many submitters questioned whether the Ombudsman's office would be adequately resourced to undertake the additional work of the inspector. To provide greater certainty and assurance on this issue and to mitigate any potential impacts, I can confirm that the Palaszczuk government will provide additional funding to the Ombudsman's office of \$9.38 million over four years and \$2.97 million per annum ongoing. Provision has also been made for the engagement of up to an additional 16 full-time equivalent staff for the office of the inspector. This additional funding and resourcing will ensure the inspector can effectively carry out its functions without compromising those performed by the Ombudsman. I acknowledge that adequate funding and resourcing will be key to the inspector operating effectively.

Concerns were raised by submitters regarding the inspector's scope. Under the bill, the inspector will be able to inspect places of detention, defined in clause 6 to include a community corrections centre, a prison, a watch house, a work camp and a youth detention centre. The inspector will also be able to review detention services defined under clause 5 of the bill to include the operation, management, direction and control or security of a place of detention. They will also be able to review security, management, control, safety, care or wellbeing of persons detained in a place of detention. While ultimately a matter for the inspector, this could include reviews examining health and rehabilitation services provided to detainees. The inspector can also review issues related to the security and management of places of detention such as overcrowding or sufficient staffing that may impact on the safety, care or wellbeing of detainees.

Detention services include the transport of detainees in particular circumstances. This could include transportation by Queensland Corrective Services of an adult prisoner between an authorised mental health facility and a Corrective Services facility or between prison and hospital for medical treatment for a prisoner. I acknowledge that there is a risk of ill-treatment to people in other situations where they may be deprived of their liberty. However, individuals in these situations are not without protections as there are existing oversight mechanisms that will apply. For example, a person can make a complaint about their treatment to other bodies such as to the Health Ombudsman, the Crime and Corruption Commission or the Queensland Human Rights Commission. Ultimately, this bill is giving effect to the government's commitment to implement recommendations arising from the independent reviews into Queensland's criminal justice system which focused on prisons, youth detention centres and watch houses.

As well as providing broad powers of inspection and review, the bill mandates certain regular inspections. The frequency of mandatory inspections was also raised by submitters. Under clause 8(c) of the bill, the inspector will be required to inspect each youth detention centre at least once every year. The inspector's role will complement the existing oversight mechanisms of the Department of Children, Youth Justice and Multicultural Affairs. Under section 263(4) of the Youth Justice Act, the director-general of the department responsible for youth justice is required to monitor detention centres and inspect each detention centre at least once every three months. The bill and the new Inspector of Detention Services will not replace or lessen these requirements.

In addition, each prison that is classed as a secure facility is to be inspected at least once every five years, and all or part of a particular place of detention prescribed by regulation at least once every five years. The bill's mandatory inspection requirements balance transparency and accountability by mandating inspections for certain places of detention, while giving the inspector flexibility to plan when and how to inspect other places of detention based on identified issues or risks.

While these are minimum requirements for certain places of detention, the inspector has the power to inspect any place of detention or conduct a review of detention services at any time, whether announced or unannounced. The inspector may choose to inspect places of detention more frequently, if required. Ultimately, the bill recognises that the inspector will be best placed to decide when and how to inspect places of detention based on the intelligence it gathers and the information received from other entities.

Further, the bill provides that the parliamentary committee responsible for examining the performance of the inspector may choose to consider the frequency of mandatory inspections and make recommendations if required. The bill also includes a requirement to review the act after five years to determine if the policy objectives remain valid and provisions continue to achieve the objectives.

Quite rightly, submissions commented on the need to make sure the bill adequately covered vulnerable detainees. It is well established that children in institutional settings can be more susceptible to abuse. They may lack the skills to advocate effectively for themselves, particularly within a detention environment. We know that children within a detention environment come from difficult backgrounds, display challenging behaviours and have complex needs. This can often be a result of the trauma that the child has experienced.

The Youth Justice Act, Human Rights Act, and the Australasian Youth Justice Administrators Standards outline governments' obligations to protect young people including those detained in Queensland. The principles of the Youth Justice Act promote the continuous improvement of places of detention and require the relevant director-general to take the necessary steps to ensure young people receive services to meet their needs. This includes rehabilitation aimed at avoiding re-offending.

The bill seeks to address some of these unique issues and challenges raised by the detention of young people. It will implement some of the recommendations made as part of recent child-specific inquiries such as the Independent Review of Youth Detention and the Royal Commission into Institutional Responses to Child Sexual Abuse.

The bill has been developed with flexibility in mind and ensures that those vulnerable detainees are adequately supported. Vulnerable detainees could include young people and others such as Aboriginal and Torres Strait Islander detainees, those with disabilities or those who are culturally or gender or sexually diverse.

The bill provides for a pragmatic approach, rather than being prescriptive, which was refined through consultation with stakeholders. For example, clauses 9 and 38 operate to ensure the inspector can arrange or consult with suitable people, professionals or others with the relevant skills, knowledge and experience to assist the inspector with reviews or inspections.

If a review or inspection relates to a detainee who identifies as First Nations, the inspector must arrange for an appropriate representative to assist the inspector. This must be someone who identifies as an Aboriginal or Torres Strait Islander and has authority to speak on behalf of the detainee. When delegating functions, the inspector must also ensure staff appointed reflect the social and cultural diversity and vulnerabilities of detainees, including representing persons who identify as a First Nations person.

The bill recognises the unique vulnerabilities, as I mentioned, of children. That is why the inspector must arrange for a suitable person with the appropriate expertise in child trauma and the prevention and identification of child sexual abuse to be present when conducting a review or inspection that relates to the detention of a child whether in a youth detention centre or another place of detention.

The bill also enables the inspector to work with other oversight bodies involved with children and young people which could include, for example, the Office of the Public Guardian or the Queensland Family and Child Commission. This is to ensure the best interests of children and young people are considered and they are appropriately supported.

It will also be open to the inspector to develop and publish separate inspection standards for children and young people that consider best practice for carrying out inspections in youth detention. This has happened in other jurisdictions. These are just some examples of how the bill provides a framework to support vulnerable detainees.

Lastly, submitters commented on the bill and its relationship to the Optional Protocol to the Convention against Torture, referred to as OPCAT. Our government supports the principles of OPCAT, and the introduction of this bill demonstrates that. It is the Commonwealth government that made the decision to ratify OPCAT, which imposes broader obligations beyond just nominating a national preventive mechanism.

There are significant cost implications in properly giving effect to OPCAT. Until ongoing funding for OPCAT is resolved with the Commonwealth, Queensland will not make a formal commitment to implement OPCAT. We will, however, continue to work with the Commonwealth and other jurisdictions to determine how best to implement OPCAT in Australia.

In conclusion, the development of this bill could not have been achieved without the cooperation and expertise of key agencies and stakeholders. I would particularly like to acknowledge and express my appreciation to all stakeholders and submitters for their valuable input into the bill. I also acknowledge the hard work of my colleague the Attorney-General and her department. This bill is an important step to ensure greater transparency in the way places of adult and youth detention operate. I commend the bill to the House.