




Speech By
Peter Russo
MEMBER FOR TOOHEY

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INSPECTOR OF DETENTION SERVICES BILL

 **Mr RUSSO** (Toohey—ALP) (3.40 pm), continuing: I rise to continue my speech in support of the Inspector of Detention Services Bill 2021. The Legal Affairs and Safety Committee invited both government and non-government stakeholders across a range of sectors to make written submissions on the bill. As part of their examination of the bill, the committee received a public briefing from the department and received written advice from the department in response to the matters raised in submissions. All of the submissions received indicated support for the establishment of an inspector in Queensland; however, a number of submitters—as is to be expected from stakeholders with diverse interests—did raise concerns about the appointment model proposed under the bill and the resourcing of the inspector.

Concerns about the model of the appointment of the inspector and the issue of resourcing the inspector were raised a number of times during the public hearing. The department's response to these concerns was—

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.

Further the department commented—

In consultation with the Queensland Ombudsman, DJAG is working to finalise the resourcing requirements and budget allocation. Pending passage of the Bill and once established, the financial and performance reporting for the Inspector will be reported on separately as part of the Queensland Ombudsman's annual report.

The committee noted—

... the independence of the Inspector and the sufficient resourcing of the Inspector were both significant issues raised by stakeholders ...

The committee also noted—

... 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. ... It is the committee's view that it is important that the Ombudsman is adequately resourced to ensure that the role of the independent Inspector can be fulfilled effectively by the Ombudsman as contemplated by the Bill.

Concerns were raised by a number of submitters that the definitions of 'detention services' and 'place of detention' in the bill were too narrow. For example, Sisters Inside submitted—

The Bill adopts a very limited definition of "detention service" (clause 5) and "place of detention" (clause 6). We recommend the definitions of "detention service" and "place of detention" must be expanded to align with the reality that many prisoners experience multiple, intersecting forms of imprisonment and control.

The department's response to this submission and to the stakeholder concerns in relation to the inclusion of the transport to hospitals for medical treatment and the definition of 'detention service' was—

The policy intention is to capture transportation of detainees from a place of detention (for example, to a hospital for medical treatment) where the detainee is in the custody of a 'relevant custodial entity' as defined in Schedule 1 ...

...

In relation to a detainee's medical treatment in hospital, this would not fall within the scope of the Inspector and would be subject to existing oversight mechanisms, such as the Health Ombudsman.

In relation to the inclusion of the journey after arrest to the watch house in the definition of 'detention services', the department's response was—

As set out in the Explanatory Notes (page 17), this does not include the journey after arrest to a watch-house for processing as this is before a person is remanded in custody by a prescribed police officer.

...

A person is also entitled to make a complaint to the QPS about their treatment by police, and to external oversight bodies including the Crime and Corruption Commission and Queensland Human Rights Commission.

Clause 8 of the bill sets out the functions of the inspector, which include

- (a) to review or monitor a detention service at any time; and
- (b) to inspect a place of detention at any time; and
- ...
- (d) to prepare and publish standards in relation to carrying out inspections; and
- (e) to report to the Legislative Assembly on—
 - (i) each review ...
 - (ii) each inspection ...

In addition, it will be a key function of the inspector to undertake mandatory inspections. The inspector will be required to conduct mandatory inspections at set intervals of certain places of detention, consistent with its preventive focus. At a minimum, the inspector will be required to inspect at set intervals certain places of detention, such as youth detention centres, and each prison that is a secure facility and all or part of a particular place of detention prescribed by regulation.

The explanatory notes provide that the investigation of incidents is not within the inspector's scope of functions under the bill. They state—

While the Inspector will not investigate specific incidents or complaints, the Inspector's reviews may consider systemic themes that arise from the individual experience of detained individuals or groups of people and/or an issue in one or more places of detention.

The bill provides the inspector with broad powers in order to carry out their functions. These powers allow them to do all things necessary to fulfil their preventive, proactive and independent mandate. To facilitate full and frank disclosure to the inspector, the information obtained will be protected, except in specific circumstances. The bill also provides for evidentiary immunity to protect a person from victimisation or reprisals.

The bill will contain some offences to ensure compliance with lawful requirements made by the inspector. These offences will assist the inspector to effectively perform the required functions and will foster cooperation in any of its investigations. It will also be an offence for the inspector to disclose information obtained under the act, except in specific circumstances.

Under the bill, specific prisoner complaints are not within the remit of the inspector's functions; nor is the investigation of critical incidents. Stakeholders raised concerns regarding the lack of investigative requirements of particular complaints or critical incidents, and the department dealt with that in its submissions to the committee.

There are a number of clauses in the bill relating to vulnerable detainees, the key ones being clauses 9 and 38. I commend the bill to the House.