



Ombudsman

Fairness for all

.....
OPCAT Report

Report on an unannounced follow-up inspection of Manawatu Prison Under the Crimes of Torture Act 1989

5 December 2017

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.....
Office of the Ombudsman
Tari o te Kaitiaki Mana Tangata



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Executive Summary

In 2007, the Ombudsmen were designated one of the National Preventive Mechanisms (NPMs) under the Crimes of Torture Act (COTA), with responsibility for examining and monitoring the general conditions and treatment of detainees in New Zealand prisons.

On 22 and 23 May 2017, Inspector Emma Roebuck and Inspector Sue Silva (to whom I have delegated authority to carry out visits of places of detention under COTA)¹ visited Manawatu Prison (the Prison) to follow up on recommendations made in a previous report (January 2016).

During the visit on 22 and 23 May 2017, the Inspectors visited all units and spoke with a selection of managers, staff and prisoners across the site.

There were 23 recommendations made following the visit in January 2016. These are detailed below.

2016 Recommendations—Treatment

Recommendations: treatment

- a. The Prison should carry out its own safety survey to identify where prisoners feel least safe, and address the findings in an arena that includes prisoner representation.

Corrections accepted recommendation a, and stated:

The Department agrees with this recommendation and it is something that is discussed regularly by the prison's Violence Prevention Panel. Accordingly a new prisoner safety survey will be completed by the end of 2016. The prisoner representative committee structure will be utilised to ensure there is appropriate prisoner representation and the findings of the survey will be communicated with prisoners in line with this process.

Corrections' response (March 2017):

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, a new prisoner safety survey was undertaken in 2016. Prisoners now meet with the unit Principal Corrections Officer (PCO) monthly to raise any concerns. Additionally, a meeting with prison management, including the Prison Director is held quarterly.

¹ Acting under delegation of the NPM, Chief Ombudsman Peter Boshier.

Inspectors' observations (May 2017)—achieved

The Prison conducted a prisoner survey following the 2016 inspection. The survey indicated 54 percent of prisoners surveyed stated that they felt safe from being 'hurt' or 'hassled' by other prisoners. Conversely, this indicated that 46 percent of surveyed prisoners did not feel safe at the time of the survey, which is significant.²

Inspectors were informed that following the 2016 inspection, monthly and quarterly meetings with prisoners were undertaken by the unit PCO and Prison Director, respectively. Minutes of these meetings for the past 12 months were requested on the 9 June. However, to date no minutes have been received.

Inspectors were not made aware of any local Prisoner Safety Strategy or Anti-Bullying Strategy, although they were informed that a National Gang Strategy was currently under development.

Discussions with Prison staff indicated that gang activity, bullying, contraband introduction and standovers continued to be an issue at the Prison.

Corrections' response (July 2017):

Corrections regrets not having the minutes for the meetings on hand at the time of the inspection. The findings of the prisoner survey indicate the majority of prisoners feel safe, and Corrections requests that you include the findings of the prisoner survey in the Report.

The minutes for these meetings were provided to your office on 16 June 2017. Corrections is of the view that the minutes display proactive communication and engagement with prisoners related to safety concerns, potential bullying and other matters.

In any event, Corrections considers that this recommendation should be marked as 'Achieved', and removed from the repeat recommendations. As noted in the draft follow-up report (Draft Report), Corrections has both carried out the safety survey, and addressed the findings in an arena that includes prisoner representatives. The fact that this process has not resulted in the complete resolution of all bullying issues does not mean that the recommendation has not been carried out.

² In a letter to the Chief Ombudsman dated 7 August 2017 Corrections stated: 'The survey in question was completed by 109 prisoners, which is just over a third of the entire Manawatu Prison population. Fifty-nine prisoners indicated they 'strongly agreed' or 'agreed' they felt safe from being hurt or hassled by other prisoners, which equates to approximately 54 percent of those that responded to the survey. However, only 27 prisoners 'strongly disagreed' or 'disagreed' with that statement which only equates to 25 percent of prisoner responses. The other prisoners (23, or approximately 21 %) indicated they were neutral. Corrections asks that this part of the report is fairly reflected in line with the above information. It is important to also note that over 60 percent of the prison population at Manawatu Prison did not take part in the survey'. This contextual information was not provided at the time of the follow-up Inspection.

Recommendations: treatment

- b. Cameras should not cover the toilet area.

Corrections rejected recommendation b, and stated:

While the Department is mindful of the dignity of prisoners, what is most paramount is managing prisoners in a safe environment. We therefore consider that the use of cameras in the safe cells and separates cells are in accordance with the principles and minimum requirements specified in the Corrections Act 2004 and Corrections Regulations 2005. In particular, section 5(1)(a) of the Act states that: “the overriding responsibility of staff is that sentences are administered in a safe, secure, humane, and effective manner.”

As we have previously explained, the cameras in safe cells are necessary to safeguard the well-being of prisoners who are assessed as being at risk of self-harm by allowing them to be monitored. This position is in line with section 151(b) of the Crimes Act 1961 which states that, “everyone who has actual care or charge of a person who is a vulnerable adult and who is unable to provide himself or herself with necessaries is under a legal duty to take reasonable steps to protect that person from injury.” The ability of staff to remotely observe prisoners in safe cells has meant that on numerous occasions they have prevented a potential prisoner suicide or self-harming incident. We therefore consider that section 151(b) of the Crimes Act 1961 is applicable to the use of cameras in safe cells and any concerns about privacy in safe cells must be secondary to the risk posed to a prisoner’s life.

The secure cell cameras are not monitored constantly, although the footage may be viewed at any time. It is important to understand that the prisoners in these cells are either serving a period of segregation or a period of cell confinement. These prisoners typically exhibit extremely challenging, threatening and abusive behaviour. The cameras have been found to be a beneficial aid in deterring this destructive behaviour in prisoners. Camera footage is an important tool in order to provide evidence of a prisoner’s actions and to protect staff from unfounded allegations.

Corrections’ response (March 2017):

As advised in the Department’s previous response to this recommendation, provided on 19 April 2016, this recommendation was rejected as we did not consider it to be consistent with the safe custodial management of prisoners.

The Department has since reconsidered its position in regards to this recommendation and is looking to establish a working party to examine options to balance necessary prisoner observation with reasonable privacy expectations. The Department intends to include custodial management, privacy experts and representation from your office in this work. I understand that this information was provided to your office on 27 January 2017.

Inspectors' observations (May 2017)—not achieved

Cameras still cover the toilet areas in the ARU and Secure Unit. I still consider prison staff (and others) having the ability, either directly or through camera footage, to observe prisoners undertaking their ablutions or in various stages of undress to amount to degrading treatment or punishment for the purpose of the Convention Against Torture.

A National Working Group has been established by Corrections to review privacy issues in both ARUs and Separates cells.³

Corrections' response (July 2017):

As noted in the draft follow-up report (Draft Report), a National Working Group has been established. The working group has been established under Terms of Reference recommend changes that could provide At-Risk Unit (ARU) prisoners with greater personal dignity and privacy while using the toilet in their cell. The working group includes staff from across Corrections, as well as representatives from the Office of the Ombudsman (Ombudsman) and Office of the Privacy Commissioner.

The working group has visited ARU Cells at one prison, and has so far held three meetings to discuss the merits of various identified options. At this stage, the group is seeking further information before it can make recommendations. The group is scheduled for a further meeting in August 2017. Corrections accepts that amending Schedule 2 Part C of the Corrections Regulations is a necessary consideration for the National Working Group.

Corrections views this as good progress towards resolving the differences of view as to how to balance prisoner safety and prisoner privacy (which has been a recurring theme in previous COTA inspections).

Corrections considers that marking this recommendation 'Not Achieved', and failing to refer to the Ombudsman's involvement in the process of reconsideration, are unreasonable in circumstances where Corrections and the Ombudsman are co-operating to resolve this issue. Corrections asks that this issue be marked as 'Under Consideration' or similar, and removed from the repeat recommendations.

Recommendations: treatment

- c. Privacy screens should be installed around toilet facilities in the safe cells and Separates cells.

Corrections did not accept recommendation c, and stated:

³ Letter from Ray Smith dated 27 January 2017. A working party has been established to examine options to balance privacy and observations in the context of At-Risk Units. The Ombudsman is engaged in an advisory capacity on these issues.

As I have explained above, the Department views the matter of prisoner dignity and privacy seriously. All possible steps are therefore taken to ensure that privacy is provided where it is possible and appropriate. However, we do not consider that any form of privacy screening should be used in the safe cells.

The absence of privacy screening is necessary to safeguard the wellbeing of prisoners who are assessed as at risk of self harm. Please note that the absence of privacy screening is compliant with Schedule 2, Part C of the Corrections Regulations 2005, which specifies the items and features of cells for prisoners at risk of self harm. The Schedule states that “no privacy screening or any other barrier that prevents a full view of the cell from the door window” should be a feature of the cell. Corrections considers that the installation of privacy screens around the toilet area in separates cells is not appropriate because it would not be consistent with the safe custodial management of prisoners.

Corrections’ updated response (March 2017):

I refer you to the Department’s response to recommendation b.

Inspectors’ observations (May 2017)—not achieved

At the time of inspection no changes had taken place in relation to the concerns raised in respect of privacy screening being installed in both the ARU and Secure Unit toilet facilities. However, I note that Schedule 2 Part C of the Corrections Regulations provides that cells for prisoners at risk of self harm must have ‘no privacy screening or other barrier that prevents a full view of the cell from the door window’, which constrains Corrections’ ability to fully address this issue.

A National Working Group has been established by Corrections to review privacy issues in both ARUs and Separates cells.⁴ I consider that amending Schedule 2 Part C should be considered in the context of this working group.

Corrections’ response (July 2017):

Please see the response to b above. Corrections asks that this issue be marked as ‘Under Consideration’ or similar, and removed from the repeat recommendations.

Corrections accepts that amending Schedule 2 Part C of the Corrections Regulations is a necessary consideration for the National Working Group.

You have asked that I change my finding to this recommendation from ‘Not Achieved’ to ‘Under Consideration’ based on the establishment of a working group to review privacy issues. While I commend these undertakings, I consider a recommendation has only been achieved when the recommended action has been substantially completed.

⁴ The Ombudsman is engaged in an advisory capacity on these issues.

Recommendations: treatment

- d. Safe cell camera footage should not be visible from the communal walkway.

Corrections accepted recommendation d, and stated:

The Department accepts this recommendation. As part of a security system upgrade we have engaged the services of firm Honeywell Limited. As part of this work they will remove the monitor in question. I am advised that the security system upgrade will commence at the end of April 2016 with a targeted completion date of September 2016.

Corrections' updated response (March 2017):

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, the Department engaged the services of Honeywell Limited to remove the monitor in question. This work has now been completed and safe cell camera footage is no longer visible in the communal walkway.

Inspectors' observations (May 2017)—achieved

Inspectors sighted the new position of camera monitors in B Block guardroom. The camera monitors are no longer visible from the communal walkway.

Recommendations: treatment

- e. Where Directed Segregation is warranted it should be used; informal management plans should not replace Directed Segregation.

Corrections accepted recommendation e, and stated:

Generic Management Plans are used simply to monitor and observe a prisoner's behaviour. They are not used to restrict or deny a prisoner's opportunity to associate with other prisoners or staff. We agree with your recommendation and where necessary directed segregation should and will be used.

Corrections' updated response (March 2017):

I refer you to the Department's previous response to this recommendation, provided on 19 April 2016.

Inspectors' observations (May 2017)—achieved

Inspectors did not identify any prisoners on informal management plans.

Recommendations: treatment

- f. The informal progression system should be formalised to ensure consistency in its application.

Corrections rejected recommendation f, and stated:

We do not accept this recommendation. This is not a national progression policy but a localised placement initiative similar to 'harmony' style wings. Muster pressure means it is not always possible to ensure high security prisoners are located in the most appropriate placement based on their pro-social behaviour and offender behaviour as the prison operates at or close to its capacity consistently. What eventuates is prisoners being located and moved at short notice as a result of muster pressure.

Corrections' response (March 2017):

I refer you to the Department's previous response to this recommendation, provided on 19 April 2016.

Inspectors' observations (May 2017)—achieved

The Prison did not appear to be operating an informal progression system at the time of the follow-up inspection. Staff reported that due to muster pressures maintaining an informal progression system was challenging.

Recommendations: treatment

- g. A more robust system should be put in place to ensure all segregation and use of force paperwork is completed to the required standard.

Corrections accepted recommendation g, and stated:

We agree with this finding and a more robust system has been adopted. The Security Manager now controls the use of force register and is the central point for collating and checking paperwork before the Prison Director signs it off. The electronic segregation register now has all complete segregation paperwork in a separate folder alongside it, resulting in easy access and retrieval.

Corrections' updated response (March 2017):

I refer you to the Department's previous response to this recommendation, provided on 19 April 2016.

Inspectors' observations (May 2017)—not achieved

Inspectors reviewed use of force and directed segregation paperwork for the six months prior to the follow-up inspection.

Some use of force paperwork had not been recorded in the Use of Force Register and incident sequencing was out of date order. There were a number of inaccuracies in the paperwork with missing incident reports, summary reports, dates, times and signatures. Inspectors could not locate paperwork for five use of force events.

According to the paperwork, a number of staff involved in use of force incidents were not up to date with their Control and Restraint training.

There were 11 incidents of Directed Segregation on the Segregation Register for the period December 2016 to May 2017. Of the 11 incidents, Inspectors could not locate paperwork for five of the reports. A review of the paperwork for the remaining six reports showed a number of inaccuracies with incorrect dates, missing signatures, incorrect sections of the Act cited, and generic management plans. Five of the six records did not have any incident report with the paperwork. Best practice would suggest the inclusion of these reports.

Both registers had a number of inaccuracies and missing paperwork. A review of the process would be beneficial to ensure both the registers and accompanying paperwork are completed to the required standard.

Corrections' response (July 2017):

Corrections regrets that the more robust system which was adopted in 2016 has not eliminated paperwork errors.

Corrections has implemented a plan to improve this area which includes changes such as continuity and filing systems. Corrections has also implemented a secondary assurance process which includes management and quality control personnel checking. Both registers have been reviewed and brought up to date in terms of accuracy of information where possible and available. This has ensured that the registers are as accurate as can be from the commencement of the new quality control and assurance processes.

Corrections requests that this information be included in the final report.

Recommendations: treatment

- h. The accommodation in B Block, including Safe cells and Separates cells, should be decommissioned and replaced with cells that are fit for purpose.

Corrections neither accepted or rejected recommendation h, and stated:

The Department is currently undertaking a strategic capital planning process and will consider the findings of this COTA report regarding the B Block accommodation as part of this process. This process will be complete by the end of April 2016 and we will then be in a position to decide if we can accept this recommendation.

Corrections' updated response (March 2017):

The Department did not accept, partially accept or reject this recommendation at the time of initial response.

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, the Department was undertaking a strategic capital planning process.

The Department's current capital plan focusses on increasing capacity in response to an increasing prison population and I am advised that an upgrade of B-Block at Manawatu Prison will be considered for future planning.

Inspectors' observations (May 2017)—not achieved

B Block accommodation, including Safe cells and Separates cells, was still in operation. The Prison had made some cosmetic improvements; hallways and cells had been painted. However, the accommodation was still not fit for purpose.

Inspectors were advised that there was, as yet, no specific date scheduled for a B Block upgrade.

Corrections' response (July 2017):

Corrections has not yet set a date for upgrading B Block. Capital expenditure of this scale is subject to a number of considerations. As noted in the Draft Report, Corrections has made interim improvements.

2017 Follow-up recommendations—treatment

I recommend that:

- a. Cameras should not cover the toilet area. **This is a repeat recommendation.**
- b. Privacy screens should be installed around toilet facilities in the Safe cells and Separates cells. **This is a repeat recommendation.**
- c. A more robust system should be put in place to ensure all segregation and use of force paperwork is completed to the required standard. **This is a repeat recommendation.**
- d. The accommodation in B Block, including Safe cells and Separates cells, should be decommissioned and replaced with cells that are fit for purpose. **This is a repeat recommendation.**

2016 Recommendations—protective measures

Recommendations: protective measures

- i. The complaints process should be displayed in all areas of the Prison, including contact details for the Prison Inspectorate and Office of the Ombudsman.

Corrections accepted recommendation i, and stated:

We agree with this recommendation and will ensure complaints process information is displayed on all prisoner notice boards. I am advised that the notice board information is refreshed on a daily basis, but prisoners consistently tear it

down. Manawatu is in the process of obtaining information about the purchase of acrylic glass (Perspex) to cover the notice board and reduce the ability of prisoners to remove the information.

Corrections' response (March 2017):

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, notice board information including information on the complaints process was being refreshed daily, however, was regularly being torn down by prisoners.

I am advised that a new perspex cover for the notice board has been installed, which has reduced instances of the information being removed.

Inspectors' observations (May 2017)—achieved

Inspectors sighted up-to-date complaints process posters in all areas of the Prison.

2016 Recommendations—material conditions

Recommendations: material conditions

- j. Replace worn and damaged strip gowns, mattresses and prisoner clothing and ensure all prisoners have access to sufficient clean clothing.

Corrections accepted recommendation j, and stated:

Damaged clothing, mattresses and strip gowns have been removed and replaced where identified. Residential Principal Corrections Officers will be tasked with completing a monthly audit of all prisoners in their units to identify any further damaged items and ensure all prisoners have access to sufficient clean clothing.

Corrections' response (March 2017):

I am advised that damaged clothing, mattresses and strip gowns have been removed and replaced where identified. As part of this process, a full audit of the site was undertaken and resulted in a number of strip gown replacements and a wider range of strip gown sizes being made available. Furthermore, all Residential Principal Corrections Officers are regularly monitoring and replacing damaging clothing, mattresses and strip gowns as required.

Inspectors' observations (May 2017)—achieved

Inspectors noted that old mattresses in all units had been replaced. Prisoners did not raise any concerns regarding quality or quantity of clothing. Senior Unit staff were monitoring and replacing damaged clothing.

Generally, prisoners were wearing clothing that was in good repair and appropriate for the weather conditions at the time of the follow-up inspection.

Recommendations: material conditions

- k. Cups should be provided for all prisoners.

Corrections accepted recommendation k, and stated:

Whilst cups have been provided to all prisoners, often they are used for other purposes for which they are not intended. All new prisoners are currently provided with a prison issued cup upon reception to the prison and existing prisoners are given the opportunity to replace their milk carton containers with a prison issued cup (I am advised that they usually prefer the milk cartons as these can hold up to a litre of liquid/tea).

Corrections' updated response (March 2017):

I refer you to the Department's previous response to this recommendation, provided on 19 April 2016.

Inspectors' observations (May 2017)—achieved

Inspectors sighted cups in some cells. Due to time restrictions, Inspectors did not check inventory lists to ensure each prisoner had been allocated a cup.

Recommendations: material conditions

- l. The serving of meals needs to be standardised to normal hours, particularly on units (TKW and TAM) that are not running an 8am to 5pm regime. This would involve lunch being served any time between 12pm and 1.30pm, and dinner to be served any time between 5pm and 7pm.

Corrections rejected recommendation l, and stated:

The Department considers the current meal times at Manawatu Prison and other sites nationally meet our operational requirements while taking into account staffing levels and the 8am to 5pm unlock regime.

As you are aware, the United Nations Standard Minimum Rules for the Treatment of Prisoners is an international convention that has effect in terms of the way it has been implemented into New Zealand law, in this case being the Corrections Act 2004 and Corrections Regulations 2005. The key provision regarding diet is section 72 of the Corrections Act 2004, which requires that every prisoner is provided with "a sufficient quantity of wholesome food and drink based on the food and nutritional guidelines for the time being issued by the Ministry of Health." The section makes no reference to the times food is to be served but is related to quality and quantity.

We consider that prisoner meals are sufficient in terms of quantity and quality. The current prison menus were developed with input from the Ministry of Health, Diabetes Life Education and the Heart Foundation in consultation with a clinical dietician. The menus provide adequate amounts of all food groups and vitamins and minerals. They are basic, nutritious and rotate every four weeks.

The general timing of meals across all facilities is as follows:

Breakfast is generally served between 7.00 am and 8.30 am, with some exceptions where breakfast may be served earlier if prisoners are commencing offender employment activities. All prisoners receive breakfast by 8.30 am, except for dairy workers at Waikeria Prison who eat breakfast at 10.00 am.

Lunch is generally served between 11.00 am and 12.00 pm across all facilities. There are no prisons that serve lunch after 1.00 pm. Although lunch is served during this time, prisoners have some control over when they choose to eat their lunch.

Dinner is generally served between 3.30 pm and 4.30 pm so that prisoners can eat before being locked up at 5.00pm. Supper is provided with the dinner meal and consists of two slices of bread and butter. Although prisoners choose when to consume the bread, it is provided as a snack to be eaten between dinner and breakfast.

Prisoners also have the opportunity to purchase food items once a week to the value of \$70, through the Department's P119 system. These food items include fruit, muesli bars, nuts, biscuits, noodles, soup and confectionary.

Corrections are of the view that concerns about hunger between dinner and breakfast are mitigated by the provision of a sufficient quantity of nutritional food, the provision of supper with the evening meal, and the ability of prisoners to purchase additional food items to sustain them if necessary.

Corrections' updated response (March 2017):

I refer you to the Department's previous response to this recommendation, provided on 19 April 2016.

Inspectors' observations (May 2017)—not achieved

Prisoners at Manawatu still receive their evening meal at approximately 4pm. Rule 22 of the Nelson Mandela Rules states *'Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served'*.

I do not consider the serving of the evening meal at 4pm to constitute normal hours, as such it is assessed this is a breach of the United Nations Nelson Mandela Rules.

Corrections' response (July 2017):

Corrections now accepts this recommendation in principle, subject to the operational needs and resources available at the prison. Corrections agrees that this should be an objective. Corrections has work underway to review the shift regimes in the custodial environment in order to align meal times more closely with the hours suggested. This is a major project which requires significant consultation with a number of parties, as well as technology upgrades. Current timelines indicate that this project will complete by the end of 2018.

The Ombudsman was briefed on this work at the recent quarterly relationship meeting. Corrections asks that these types of recommendations in the future are considered in line with the work underway to revise shift patterns.

However, Corrections maintains that the current meal times comply with section 72 of the Corrections Act 2004, which stipulates that every prisoner is provided with “a sufficient quantity of wholesome food and drink based on the food and nutritional guidelines for the time being issued by the Ministry of Health”. There is no reference to the times food is served; rather, the focus is on quality and quantity. The current menus were developed with input from the Ministry of Health, Diabetes Life Education and the Heart Foundation in consultation with a clinical dietician.

Corrections is of the view that concerns about hunger between dinner and breakfast are mitigated by the provision of a sufficient quantity of nutritional food, the provision of supper with the evening meal, and the ability of prisoners to purchase additional food items to sustain them if necessary. It is the prisoner’s choice as to when they consume their supper; it is intended to be consumed between dinner and breakfast.

The serving of meals in units TKW and TAM has now been changed to later in the evening due to the operational ability of the site to now provide greater unlock hours in the evening on both units.

Recommendations: material conditions

- m. The Department should consider reviewing the items available on the P119 with a view to offering healthier choices. Prisoners should be part of the review process.

Corrections accepted recommendation m, and stated:

The options available on the P119 are nationally consistent and regularly considered by Prison Directors at their forum. We consider that there are sufficient numbers of healthy choices on the current list including fruit, muesli bars and nuts. Please note that the P119 purchases are intended to be in addition to the food provided by the Department for meals, which is considered to be a sufficient full diet in quantity and quality.

Corrections’ updated response (March 2017):

I refer you to the Department’s previous response to this recommendation, provided on 19 April 2016.

Inspectors' observations (May 2017)—partially achieved

Inspectors were informed that a new P119 supplier for the Prison had been sourced. However, the new P119 system had yet to be implemented; a commencement date of September 2017 was given.

Inspectors were provided with a copy of the new P119 form and noted the selection of items available on the new P119 form had not significantly changed. I have been informed by the Department that a national review of the P119 catalogue is expected to be completed by the end of 2017. This will include identifying healthier options.

Corrections' response (July 2017):

Corrections asks that this recommendation be marked as 'Achieved', and removed from the repeat recommendations.

Corrections accepted the recommendation. It has both considered the review recommended, and instituted the review. The fact that the system has not yet been fully implemented does not mean that the recommendation has not been achieved.

Recommendations: material conditions

n. Options for a cheaper P119 distributor should be explored.

Corrections accepted recommendation n, and stated:

As you will be aware the Department is currently reviewing the P119 system. This undertaking is progressing well and now sits with our procurement team who are considering distribution options.

Corrections' updated response (March 2017):

As advised above, the Department is currently negotiating a new national canteen supplies agreement with the intention of implementing it in 12 prisons on 1 April 2017. The new agreement will then be implemented across our remaining sites over the following six months. The new agreement will include nationally consistent prices for all items.

Inspectors' observations (May 2017)—achieved

A copy of the new P119 showed that the previously high prices at the Prison had been reduced on many options. A commencement date of September 2017 was given for the new P119 provider to take up operation.

Recommendations: material conditions

o. Water quality on site should be assessed.

Corrections accepted recommendation o, and stated:

The discolouration described may have been due to the water being turned off temporarily, which happens when maintenance is carried out in the unit. Samples of the water from B and C Block as well as Administration were sent to the Central Environmental Laboratories for testing on 11 March 2016.

They responded with the following:

The four samples you submitted on 11 March 2016 were tested for pH, conductivity, sulphide and bacterial contamination to determine if there is a cause for health concern, taste and possible contamination of the water supplied in each area. All the parameters are within expected ranges for the water that you submitted. The taste of the water would be affected by the sulphide that is still present in the water after treatment. None of the tests indicate that the water is unsuitable to drink.

A copy of this letter was placed on the noticeboards in B and C Blocks to inform prisoners and provide reassurance.

Corrections' response (March 2017):

I refer you to the Department's previous response to this recommendation, provided on 19 April 2016.

Inspectors' observations (May 2017)—achieved

Water quality for the Prison had been assessed. No prisoners notified Inspectors of discoloured water, although several prisoners complained about the water tasting unpleasant.

2017 Follow-up recommendations—material conditions

I recommend that:

- a. The serving of meals needs to be standardised to normal hours, particularly on units (TKW and TAM) that are not running an 8am to 5pm regime. This would involve lunch being served any time between 12pm and 1.30pm, and dinner to be served any time between 5pm and 7pm. **This is a repeat recommendation.**
- b. The Department should consider reviewing the items available on the P119 with a view to offering healthier choices. Prisoners should be part of the review process. **This is a repeat recommendation.**

2016 Recommendations—activities and communications

Recommendations: activities and communications

- p. Remand accused prisoners should be provided with a programme of constructive activities.

Corrections accepted recommendation p, and stated:

Remand accused prisoners are currently able to access the library on Tuesdays between 1.30 and 2.30 pm. We have also recently provided a First Aid course for this group of prisoners and will be offering this course each month for 12 prisoners going forward. Remand accused prisoners are also able to access numeracy and literacy courses and Alcohol and other Drug (AOD) Brief and Intermediate programmes.

We will also offer forklift driving for 10 prisoners, once a month, commencing in April 2016.

Corrections' response (March 2017):

As advised in the Department's previous response to this recommendation, on 19 April 2016, remand accused prisoners have access to the library on Tuesday between 1.30 and 2.30pm, 12 prisoners are offered the opportunity to attend First Aid courses each month, and have access to literacy and numeracy courses. This is in addition to access to Alcohol and other Drugs (AOD) brief and intermediate courses.

Additionally, in 2016 a national initiative took place to develop Industry Training and Learning (ITL) plans for prisons. Each prison developed measurable plans to engage prisoners in constructive activity.

Inspectors' observations (May 2017)—partially achieved

During the follow-up visit, Inspectors noted the majority of remand prisoners were on a basic yard to cell regime. Of the 65 remand accused prisoners at the Prison on the day of inspection, only three were engaged in some form of constructive activity, according to unit diary records.

Since the January 2016 inspection, an activities group for remand prisoners has been established with PARS⁵. The group meets every Friday from 9.30am to 12pm. Presentations are given on topics including family violence, housing and employment. Prisoners also participate in recreational activities such as board games.

From the figures provided from COBRA,⁶ Inspectors were unable to ascertain how many hours of constructive activity had been undertaken by remand prisoners in April 2017.

Senior Prison staff also reported there was no extra resourcing available to implement activities for remands.

Corrections' response (July 2017):

As advised in the March 2017 response, Corrections has developed Industry, Treatment and Learning plans for all sites, including Manawatu.

⁵ Prisoner Aid and Rehabilitation Service.

⁶ Corrections Business Reporting and Analysis.

These plans are currently under review for the 2017/18 financial year after being implemented in 2016/17. Remand accused prisoners have access to a range of programme and activities such as First Aid and the Prisoner Aid and Rehabilitation Friday club.

Corrections does not know why the Inspectors could not ascertain how many hours of constructive activities had been undertaken in April 2017. This is available in COBRA at a micro (prisoner) and macro (prison) level. Corrections is happy to provide assistance to Inspectors to identify the relevant data.

It is acknowledged that there are challenges in providing remand prisoners with programmes of constructive activities. This is due to the uncertainty related to the amount of time they may spend in the facility, as well as prisoners' motivation to participate in programmes.

Recommendations: activities and communications

- q. Prisoners on Voluntary Segregation should be provided with more rehabilitation opportunities.

Corrections accepted recommendation q, and stated:

The needs of our prisoners are one of the main considerations Case Managers take into account when scheduling programmes. We adapt to suit the needs of prisoners as per their Risk/Need/Responsivity. With the exception of the Special Treatment Unit Rehabilitative Programme (STURP), segregated prisoners have the same opportunities available to them as mainstream prisoners.

At Manawatu Prison we are currently running Carpentry, AOD Intermediate, Get Ahead and Numeracy and Literacy programmes for segregated prisoners. We are also planning to facilitate First Aid and Forklift courses for this prisoner group in April and May 2016.

We have previously facilitated Short Rehabilitative Programmes (SRP), Short Motivational Programmes (SMP), AOD Brief and Graphic Design programmes for this prisoner group.

Opportunities outside Manawatu Prison are also available and Case Managers consider the following for segregated prisoners:

- *Te Tirohanga (segregation) Tongariro Prison;*
- *MIRP (segregation) Rimutaka Prison; and*
- *DTU (segregation) Hawkes Bay Regional Prison.*

If we have sufficient numbers of suitable participants we will run our own Medium Intensity Rehabilitation Programme (MIRP) for segregated prisoners.

Corrections' response (March 2017):

I refer you to the Department's previous response to this recommendation, provided on the 19 April 2016.

Additionally, as explained above, in 2016 a national initiative took place to develop Industry Training and Learning (ITL) plans for prisons. Each prison developed measurable plans to engage prisoners in constructive activity.

Inspectors' observations (May 2017)—partially achieved

A review of file notes in IOMS⁷ of prisoners on Voluntary Segregation (in W2) did not reflect any regular involvement in daily activities other than a few prisoners involved in the gardens (mainly elderly prisoners). One prisoner was receiving assistance with his literacy and numeracy needs; however, file notes indicated that he was no longer attending these sessions.

Inspectors requested a breakdown of hours of constructive activity undertaken by prisoners on Voluntary Segregation for April 2017, but were unable to ascertain how many hours had been undertaken from the figures provided.

Corrections' response (July 2017):

Corrections accepts that it is always possible to provide additional daily activities to segregated prisoners.

Corrections, however, considers that a reasonable number of activities are already available. In addition to the programmes noted in Corrections' previous responses, the following rehabilitation courses are available: Alcohol and Other Drug Short Rehabilitation Programme, Medium Intensity Rehabilitation Programme, Secure Online Learning, Intensive Literacy and Numeracy programme, Family Violence Programme, and Agriculture.

The uptake of these activities and programmes depends on prisoner choices.

Corrections is happy to assist the Inspectors in understanding the data showing the hours of constructive activity undertaken by prisoners.

Recommendations: activities and communications

r. All prisoners should have equity of access to telephones.

Corrections accepted recommendation r, and stated:

Prisoners across all units are given the opportunity to access telephones both in the exercise yard area and on the units themselves. We will explore options to ensure fairer access through the safety survey and prisoner representative committees.

Corrections' response (March 2017):

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, prisoner across all units are given the opportunity to access telephone, the Department however, agreed to explore options to ensure fairer access. I am advised that all prisoner yards except one have telephones

⁷ Integrated Offender Management System.

installed. The prisoner yard without telephones is for placement of misconducts. The prison is also considering placing another phone in an interview room at the end of wings 3 and 4 to further improve access.

Inspectors' observations (May 2017)—not achieved

Access to telephones was identified as an issue, particularly in C Block yards, during the January 2016 inspection. During the follow-up visit, Inspectors observed queues of up to six prisoners in C Block yards waiting to access the phone. Additional telephones had not been installed.

A prisoner survey was conducted by the Department following the 2016 inspection; prisoners also identified access to telephones in C Block as an issue.

We were informed that the Department has established a free phone support line to assist prisoners with their alcohol and/or drug issues.⁸ We commend this practice, but would recommend additional telephones are installed in C Block yards, so prisoners are able to make confidential telephone calls.

Corrections' response (July 2017):

Corrections is continuing to consider the installation of extra phones.

Recommendations: activities and communications

- s. Information kiosks should be repaired.

Corrections accepted recommendation s, and stated:

As we have previously explained, the Department is replacing all prisoner kiosks with new technology. The business case was approved for the new technology to be rolled out across all prisons over the next two financial years (2015/16 and 2016/17).

The roll out of the new technology is in progress; however a date for Manawatu Prison to receive the new kiosks has not been scheduled at this time. In the interim, if prisoners wish to access any information that is held in the information kiosk, they may request it from unit staff, who will provide it to them.

Corrections' response (March 2017):

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, the Department started replacing prisoner kiosks at all of our sites with new technology in the 2015/16 financial year.

Manawatu Prison is now equipped with the new kiosks which can be used by prisoners wishing to access information. Manawatu Prison is now awaiting the installation of

⁸ RecoveRing – Alcohol and drug support line.

fingerprinting capability for the kiosks which will allow prisoners to efficiently order goods through the P119 system using the technology.

Inspectors' observations (May 2017)—partially achieved

Inspectors observed that new information kiosks had been installed in all units. However, the kiosks sighted by Inspectors in B Block were not operational. As B Block is a remand unit, the need for prisoners to access accurate information is of significant importance.

We recommend that B Block information kiosks are repaired or replaced with urgency.

Corrections' response (July 2017):

Upon being notified of this issue the kiosk was repaired immediately. It is the responsibility of all staff to ensure that kiosks repairs are requested should they not be available to use and Corrections' high standards were not met on this occasion.

Regrettably prisoners may vandalise kiosks from time to time, and technology faults may render the kiosks unavailable from time to time. As a back up to the kiosks, prisoners can still get access to the same information via ordinary manual processes which are managed by prison staff.

Recommendations: activities and communications

t. Prisoners should receive their mail in a timely manner.

Corrections accepted recommendation t, and stated:

We will research the problems prisoners are experiencing in relation to receiving mail through the safety survey and prisoner representative committees. However, it is important to note that although prisoners' inward mail is collected, held securely and distributed each working day at Manawatu Prison, the mail must also be checked to ensure it does not contain any inappropriate items. Manawatu Prison ensures it complies with sections 103A to 110C of the Corrections Act 2004 when handling prisoner mail, which is provided as soon as practicable.

Corrections' response (March 2017):

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, it was agreed that we would investigate any issues related to prisoners receiving mail. I am advised that this investigation determined that any delay in prisoners receiving their mail is due to an increased volume of post coming through the prison.

It is important to note that although prisoners' inward mail is collected, held securely and distributed each working day at Manawatu Prison, the mail must also be checked to ensure it does not contain any inappropriate items. Manawatu Prison ensures it complies with sections 103A to 110C of the Corrections Act 2004 when handling prisoner mail, which is provided as soon as practicable.

Inspectors' observations (May 2017)—achieved

Inspectors reviewed the last six months of prisoner complaints and none related to mail. During the follow-up inspection, no prisoners informed Inspectors that they were encountering difficulties or delays in accessing their mail.

2017 Follow-up recommendations—activities and communications

I recommend that:

- a. Remand accused prisoners should be provided with a programme of constructive activities. **This is a repeat recommendation.**
- b. Prisoners on Voluntary Segregation should be provided with more rehabilitation opportunities. **This is a repeat recommendation.**
- c. All prisoners should have equity of access to telephones. **This is a repeat recommendation.**
- d. Information kiosks should be repaired. **This is a repeat recommendation.**

2016 Recommendations—health care

Recommendations: health care

- u. An annual health needs assessment, including mental health needs, should inform the health services requirements and funding. This process should include regular consultation with prisoners.

Corrections rejected recommendation u, and stated:

The Department does not consider that an annual health needs assessment is the most appropriate means of determining funding for prisoner health services.

Health Services uses a national funding model that is not specific to Manawatu Prison. The model is not apportioned based on specific prisoner health issues. Rather, the majority of the funding allocated to staffing levels, (which are not assessed as being inadequate), followed by contracted medical officer and dental services (which are not assessed as having unreasonable waiting times) and pharmaceuticals (the provision of which is described as adequate).

Corrections' response (March 2017):

I refer you to the Department's previous response to this recommendation, provided on 19 April 2016.

Inspectors' observations (May 2017)—not achieved

This recommendation was not accepted and consequently not implemented.

Corrections' response (July 2017):

Corrections remains of the view that an annual health needs assessment is not the most appropriate means of determining funding for prisoner health services, for the reasons previously advised.

Recommendations: health care

v. On-site dental provision should be established with some urgency.

Corrections accepted recommendation v, and stated:

I am advised that M Dental Limited, Palmerston North was contracted to supply dental services to Manawatu Prison on 9 February 2016. New dental equipment has been ordered for the dental suite and as soon as that arrives we will commence the dental service.

Corrections' response (March 2017):

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, M Dental Limited, Palmerston North was contracted to provide dental services to Manawatu Prison on 9 February 2016. I can confirm that dental services have now commenced at Manawatu Prison and an x-ray machine has been purchased.

Inspectors' observations (May 2017)—achieved

Dental services had been contracted and were fully operational at the Prison.

The Dentist visits the prison on a weekly basis. Inspectors sighted dental waitlists whereby patients were triaged according to need. The overall average wait time to see the dentist was 28 days. Patients whose dental needs were assessed as urgent had an average wait time of 17 days.

Only one complaint had been made in the last six months by a prisoner about dental services. The complaint related to his wait time. A review of scheduled appointments indicated he was scheduled to see the dentist in July.

Recommendations: health care

w. Forensic staff should document any consultation in health care records.

Corrections accepted recommendation w, and stated:

I am advised that this practice does occur, however there are some discrepancies in terms of where and when forensic staff document their consultations.

We have found that some forensic staff do not use Corrections' electronic health records at the time of the consultation and this issue has been raised with the Regional Clinical Director - Mental Health Services, Capital and Coast District Health

Board. My understanding is that the Regional Clinical Director is reviewing this process with her staff.

Corrections' response (March 2017):

As advised in the Department's previous response to this recommendation, provided on 19 April 2016, this practice does occur, however, there are discrepancies in terms of where and when documentation takes place. The Department confirmed that it was discussing the issue with the Regional Clinical Director – Mental Health Services, Capital and Coast District Health Board.

My understanding is that the Department is now working with Ministry of Health to resolve this issue and the National Commissioner is preparing a letter to the Director and Chief Advisor of Mental Health regarding this issue.

Inspectors' observations (May 2017)—achieved

Inspectors observed the visiting Forensic Psychiatrist entering patient notes into the Medtech system. The Prison's new Health Manager reports she has worked with forensic services to ensure their notes are entered on Medtech.

Health service provision at the Prison has improved since our last inspection: several on-site clinics have been established, as well as in-house dental provision.

2017 Follow-up recommendations—health care

- a. An annual health needs assessment, including mental health needs, should inform the health services requirements and funding. This process should include regular consultation with prisoners. **This is a repeat recommendation.**

Acknowledgements

I appreciate the full co-operation extended by the managers and staff to the Inspectors during their visit to the Prison.

Consultation

A draft copy of this report was forwarded to the Prison Director and Corrections Services National Office for comment as to fact, finding or omission prior to finalisation and distribution.

Publication

Under Section 27 and 36 of the Crimes of Torture Act 1089, the Chief Ombudsman will present a copy of this report to Parliament before publication on the Ombudsman website.

Peter Boshier
Chief Ombudsman
National Preventive Mechanism

Appendix 1. Overview of OPCAT – Prisons

In 2007 the New Zealand Government ratified the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The objective of OPCAT is to establish a system of regular visits undertaken by an independent national body to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

The Crimes of Torture Act 1989 (COTA) was amended by the Crimes of Torture Amendment Act 2006 to enable New Zealand to meet its international obligations under OPCAT. Section 16 of COTA identifies a “place of detention” as:

‘...any place in New Zealand where persons are or may be deprived of liberty, including, for example, detention or custody in...

(a) a prison ...

(c) a court cell’.

Pursuant to section 26 of COTA, an Ombudsman holding office under the Ombudsmen Act 1975 was designated a National Preventive Mechanism (NPM) for certain places of detention, including prisons and court cells.

Under section 27 of COTA, an NPM’s functions, in respect of places of detention, include:

2. to examine, at regular intervals and at any other times the NPM may decide, the conditions of detention applying to detainees and the treatment of detainees; and
3. to make any recommendations it considers appropriate to the person in charge of a place of detention:
 - a. for improving the conditions of detention applying to detainees;
 - b. for improving the treatment of detainees;
 - c. for preventing torture and other cruel, inhuman or degrading treatment or punishment in places of detention.

To facilitate the exercise of their NPM functions, the Ombudsmen have delegated their powers to inspect places of detention to Inspectors (COTA). This is to ensure that there is a clear distinction between the Ombudsmen’s preventive monitoring function under OPCAT and the Ombudsmen’s investigation function under the Ombudsmen Act.

Under COTA, NPMs are entitled to:

4. access all information regarding the number of detainees, the treatment of detainees and the conditions of detention;
5. unrestricted access to any place of detention for which they are designated, and unrestricted access to any person in that place;

6. interview any person, without witnesses, either personally or through an interpreter; and
7. choose the places they want to visit and the persons they want to interview.