



# Ombudsman

Fairness for all


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OPCAT Report

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

5. December 2017

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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 16 May 2017, Inspectors Emma Roebuck and Sue Silva (to whom I have delegated authority to carry out visits of places of detention under COTA)<sup>1</sup> visited Arohata Prison (the Prison) to follow up on recommendations made in a previous OPCAT report (November 2015). Prior to the visit Inspectors wrote to the Prison Director to request an update on the implementation of the 2015 recommendations.<sup>2</sup>

During the visit on 16 May 2017, the Inspectors visited all units and spoke with a selection of managers, staff and prisoners across the site.

Seventeen recommendations were made following the November 2015 inspection. These are detailed below.

## 2015 Recommendations – treatment

### Recommendation: treatment

- a. Privacy screens should be installed around toilet facilities in the At-Risk Unit and Secure Unit.

Corrections rejected recommendation a, and stated:

*We take issues of privacy very seriously and take all possible steps to ensure that a prisoner's privacy is maintained where possible and appropriate. However, we do not consider that any form of privacy screening should be used in the At-Risk Unit 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 specify 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.*

*Installation of privacy screens around the toilet area in the Secure Unit cells is also not accepted as a recommendation because Corrections deems this would not be consistent with safe custodial management.*

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<sup>1</sup> Acting under delegation of the NPM, Chief Ombudsman Peter Boshier.

<sup>2</sup> Letter sent 15 February 2017.

Corrections' updated response (Feb 2017):

*As advised in the Department's previous response to this recommendation, provided on 3 March 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

At the time of inspection no changes had taken place in relation to privacy screening being installed around toilets in both the At-Risk Unit (ARU) and Secure Unit cells.

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. 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 ARU and Separates cells.<sup>3</sup> I consider that amending Schedule 2 Part C should be considered in the context of this working group.

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.*

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<sup>3</sup> The Ombudsman is engaged in an advisory capacity only on these issues.

*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.*

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.

#### **Recommendation: treatment**

- b. Cameras should not cover the toilet area.

Corrections rejected recommendation b, and stated:

*The Department places great importance on managing prisoners' safely, humanely and with dignity. We consider that the use of cameras in the At Risk and Separates cells in accordance with the principles and minimum requirements as specified in the Corrections Act 2004 and Corrections Regulation 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 you have noted the four cells in the At Risk Unit, that is the three at-risk cells and one dry cell, contain cameras that view the toilet area (apart from the dry cell which has no toilet). These cameras are necessary to safeguard the wellbeing 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." Corrections believes that this section is applicable to the use of cameras as there have been numerous occasions where the remote observation of prisoners in At Risk cells has enabled staff to intervene and successfully prevent a potential suicide or self-harming event. Any concerns about privacy in At Risk Units must be secondary to risk to life.*

*Cells in the Secure Unit also contain cameras that view the toilet area. Prisoners in secure cells are either serving a period of segregation or a period of cell confinement. These prisoners often exhibit extremely challenging, threatening and abusive behaviour. These cameras are necessary to deter prisoners from such behaviour. Footage can also provide evidence of a prisoner's actions to hold them to account and protect staff against unfounded allegations. The secure cell cameras are not constantly monitored but are available to be viewed at any time.*

Corrections' updated response (Feb 2017):

*I refer you to the Department's previous response to this recommendation, provided on 3 March 2016.*

### Inspectors' observations (May 2017) – not achieved

There were no prisoners in the ARU at the time of the follow-up visit. Cameras still cover the toilet areas. We have been informed that the National Working Group established by Corrections will examine the concerns of cameras covering toilet areas.

Corrections' response (July 2017):

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

#### **Recommendation: treatment**

- 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.

Corrections accepted recommendation c, and stated:

*Since receiving the draft of this report, Arohata Prison has adopted a new, robust process for reviewing all use of force incidents. This is the same process that is in place at Rimutaka Prison and it provides a quality and completion check for all of the paperwork before it is signed off. Also since receiving the draft of this report, all of the gaps and errors identified in the segregation paperwork have been rectified. Prior to the segregation decision being made by the Prison Director, all of the required paperwork is checked by the Principal Corrections Officer to ensure that it is completed correctly and to the required quality. All staff have been reminded of the importance of this check.*

### Inspectors' observations (May 2017) – not achieved

At the time of inspection five prisoners were being detained in the Secure Unit. Two prisoners were being detained under the title of 'accommodation'; two prisoners were being detained on Voluntary Protective Segregation and one prisoner on Directed Segregation.

Inspectors were advised by management that the women held on 'accommodation' were in the Secure Unit as a result of no accommodation being available in Tizard Unit. Contrary to this, the Senior Corrections Officer in Tizard advised that they had a number of beds available.

Further enquiries identified that one of the women being detained under 'accommodation' was being held in the Secure Unit as forensics had stated she should not be placed in mainstream with other prisoners (Inspectors sighted a memo detailing this). She was not on a waitlist for a forensic bed and she was not being held under any form of Directed Segregation. Eventually, she was placed on Voluntary Protective Segregation (the day after the follow-up visit). However, she was subject to minimum entitlements (M.01.03.Form.09 completed) despite her segregation request (M.01.05.Form.01) stating otherwise.



At the time of the inspection, the Prison was only able to provide segregation paperwork for one of the five prisoners held in the Secure Unit. Inspectors were advised that Arohata Prison only holds unsigned copies of Directed Segregation paperwork; original, signed copies are held at Rimutaka Prison. When requesting copies of the unsigned paperwork, Inspectors were advised that they had been taken away for review by a senior staff member.

There was no Use of Force Register or Segregation Register on site. Inspectors were again advised that these registers were managed and held at Rimutaka. It was reported that these registers were electronic and managed by the Principal Corrections Officer and the Custodial Systems Manager at Rimutaka. A request to obtain copies of both registers proved difficult. As a result of the Custodial Services Manager being away from site, copies were finally received on 23 May (requested on 16 May). It was of concern that no-one at the Prison was able to provide copies of Segregation and Use of Force paperwork upon request.

Analysis of the registers and paperwork identified a number of issues. Some paperwork was missing altogether.<sup>4</sup> Segregation paperwork detailed the incorrect section of the Act, and management plans were either missing or generic in nature. The majority of use of force paperwork had not been reviewed; no signature was noted on the Mechanical Restraint paperwork, follow-up summaries were missing, prisoner interview sections were not completed. Two separate use of force incidents were incorrectly combined into the same event.

Missing paperwork was provided to the Inspectors on 1 June.

Corrections' response (July 2017):

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

*Corrections has since enhanced the quality assurance process by:*

- *Tasking the Custodial Systems Manager at Rimutaka Prison with reviewing all documentation related to prisoners placed in Separates cells and those involved in a use of force incident.*
- *Tasking Residential Managers with providing a second line of assurance on all documentation—ie in addition to checks by Principal Corrections Officers. If at any point the documentation is found not to meet the required standards, it shall be rejected and resubmitted once rectified.*

*Corrections regrets that the Use of Force Register was not easily accessible at the time of the Inspectors' visit. It is now stored in a central location and can be accessed via the information technology system at Arohata.*

*A new guideline has been issued to ensure that all Directed Segregation documentation covers off relevant requirements, including a checklist and clear examples of the*

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<sup>4</sup> An email was sent to the Residential Manager and the Custodial Systems Manager on 26 May requesting the missing paper work.

*standards expected. Coaching is being delivered to all key staff at Arohata Upper Jail by the Residential Manager during July. These staff will then deliver the training of other staff as required. The Directed Segregation Register and documentation is also centralised and can be accessed via the information technology system from Arohata.*

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

#### **Recommendation: treatment**

- d. Women being held on Voluntary Segregation should have the same opportunities as non-segregated women, including access to purposeful activities and leisure facilities.

Corrections accepted recommendation d, and stated:

*Sufficient staffing will be ensured for the At Risk/Secure areas to ensure those prisoners on Voluntary Segregation are afforded opportunities to utilise library facilities and access the gymnasium.*

#### **Inspectors' observations (May 2017) – partially achieved**

The Residential Manager reported that it was not always possible for prisoners on Voluntary Segregation to have the same opportunities as non-segregated women due to the relatively small number on segregation. It was reported that prisoners on Voluntary Segregation had access to the gym and library although the Inspectors were unable to verify this with prisoners. Women in the Secure Unit and ARU had opportunities to paint in the office. There were two wall murals that were being worked on by prisoners in the ARU.

As a consequence of Arohata Prison having no dedicated accommodation for women prisoners on Voluntary Segregation, they are generally disadvantaged and appeared to receive less interaction and access to programmes and leisure activities than their mainstream counterparts.

Corrections' response (July 2017):

*Prisoners on Voluntary Segregation have access to the gym and library on a daily basis and the staff will ensure that this is continually offered.*

*As well as these activities, the prisoners also have the ability to see volunteers, meet with the Chaplains, take part in in-cell learning and also participate in other appropriate activities, whilst ensuring their safety is maintained on segregation at Arohata.*

*These prisoners therefore do have access to the same purposeful activities and leisure facilities; however, it is acknowledged that the lack of dedicated segregation accommodation creates challenges in ensuring that these prisoners are always able to spend the same amount of time as non-segregated prisoners engaging in these activities.*

*Consideration will be given to transferring segregated prisoners to other sites that have dedicated segregation accommodation.*

### Recommendation: treatment

- e. Women on Voluntary Segregation should not be subjected to closed visits.

Corrections accepted recommendation e, and stated:

*Prisoners held in secure cells on Voluntary Segregation will be afforded the opportunity to mix with similar category women in the Tizard dayroom and the large yard in the interim. Options for additional yards are being considered at this time.*

*Voluntary segregation category prisoners have contact visits in the visits area between 11.45am to 1pm, utilising staff on 6am to 2pm shifts.*

### Inspectors' observations (May 2017) – achieved

Women on Voluntary Segregation confirmed with the Inspectors that they receive normal visits and are not subject to closed visits.

### Recommendation: treatment

- f. Prison management, in conjunction with the local police, should develop a memorandum of understanding (MOU) to ensure Police respond to women's allegations in a timely manner.

Corrections accepted recommendation f, and stated:

*Police liaison officers met with Arohata Prison management prior to Christmas 2015 to establish a MOU for the Arohata site and contact details were exchanged to enhance ongoing communication. Regular monthly meetings are being sought for the future and this will be included in the MOU when drafted.*

### Inspectors' observations (May 2017) – not achieved

A Local Level Agreement (LLA) between the Department of Corrections and Police (Wellington) was sighted. This agreement also covered Rimutaka Prison.

The agreement was signed on the 19 May 2016 and due for review at the time of the visit. The LLA set out key details in relation to the control and management of a major incident at the designated prisons. The agreement also referenced quarterly meetings. The agreement did not address my recommendation for Police to respond to prisoners' allegations in a timely manner. I consider the above recommendation should be incorporated in the updated LLA.

Corrections' response (July 2017):

*Corrections accepts this recommendation. Arohata Prison is setting up a formal monthly relationship meeting with Police that will govern how both parties are engaging under the LLA and monitoring how quickly Police respond to prisoners' allegations.*

*We anticipate working with Police to incorporate this recommendation in the updated LLA subject to agreement from Police.*

*Corrections request that this information be included in the final report.*

## 2017 Recommendations – treatment

I recommend that:

- a. Privacy screens should be installed around toilet facilities in the At-Risk Unit and Secure Unit. **This is a repeat recommendation.**
- b. Cameras should not cover the toilet. **This is a repeat recommendation.**
- c. A robust system should be put in place to ensure all documentation related to prisoners placed in a separate cell, on segregation and following a use of force incident is completed to the required standard. **This is a repeat recommendation.**
- d. Women being held on Voluntary Segregation should have the same opportunities as non-segregated women, including access to purposeful activities and leisure facilities. **This is a repeat recommendation.**
- e. Prison management, in conjunction with the local police, should develop a memorandum of understanding (MOU) to ensure Police respond to women’s allegations in a timely manner. **This is a repeat recommendation.**

## 2015 Recommendations – material conditions

### Recommendation: material conditions

- g. The serving of meals needs to be standardised to normal hours. 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 did not accept recommendation g, and stated:

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

*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 7am and 8.30am, with some exceptions where breakfast may be served earlier if prisoners are commencing offender employment activities. All prisoners receive breakfast by 8.30am, except for dairy workers at Waikeria Prison who eat breakfast at 10am.*

*Lunch is served generally between 11am and 12pm across all facilities. No prisons serve lunch after 1 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 3.30pm and 4.30pm so that prisoners can eat before being locked up at 5pm. 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 (Feb 2017):

*I refer you to the Department's previous response to this recommendation, provided on 3 March 2016.*

### Inspectors' observations (May 2017) – not achieved

This recommendation was rejected by the Department. Women at the Prison 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 consider it inappropriate for meals to be served at non-standard hours.

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.*

#### **Recommendation: material conditions**

- h. 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 did not accept recommendation h, 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 additional to the food provided by the Department for meals which is considered to be a sufficient full diet in quantity and quality.*

*As you will be aware the Department is currently reviewing the P119 system.*

Corrections' updated response (Feb 2017):

*As advised in the Department's previous response to this recommendation, provided on 3 March 2016, the Department was in the process of reviewing the P119 system. Since then, the process of negotiating a new national canteen supplies agreement has commenced with the intention of implementing the agreement in 12 prisons on 1 April 2017. The new agreement will then be implemented across our remaining sites over the following six months and will include nationally consistent prices for all items.*

*Once the new canteen supplies agreement is implemented across all the Department's sites, the Department will review the catalogue of available goods with a view to identifying healthier options. The Department expects this review to be completed by the end of 2017.*

### Inspectors' observations (May 2017)–partially achieved

Inspectors were advised that a new P119 supplier had been sourced; however, the supplier stated that not a lot had changed in terms of items on the P119 forms. It was encouraging to note a general reduction in the pricing of some everyday items, coupled with the addition of a number of new items for purchase. However, there were very few healthy options available.

Rimutaka Prison managed Arohata's weekly P119 canteen shopping. A cost comparison with Christchurch Prison was completed and showed that overall Arohata's current (P119) shopping list was markedly cheaper across a significant number of items.

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.*

## 2017 Recommendations – material conditions

I recommend that:

- a. The serving of meals needs to be standardised to normal hours. 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.**

## 2015 Recommendations – activities and communications

### Recommendation: activities and communications

- i. All prisoners should be given the opportunity for at least one hour's exercise in the fresh air.

Corrections did not accept recommendation i, and stated:

*All prisoners have the opportunity to exercise for one hour daily in the fresh air. The kitchen workers, who were specifically mentioned in the draft report, are able to exercise in a secure yard as was sighted by the Inspectors during their visit. They are not all in the yard at one time but go out there in small groups to get fresh air and exercise in between their duties.*

*We consider that the yard area provided for kitchen workers is sufficient to accommodate their one hour of exercise in the fresh air daily.*

Corrections' updated response (Feb 2017):

*I refer you to the Department's previous response to this recommendation, provided on 3 March 2016.*

### Inspectors' observations (May 2017) – not achieved

Both prisoners and staff in the kitchen advised Inspectors that the women usually take their break on the steps of the kitchen (in the receiving dock area). It was reported that occasionally they were able to use the Receiving Office vehicle entrance. Inspectors considered neither area suitable for exercise purposes.

Staff and prisoners advised that lunch hours were reduced when workloads were high, resulting in some prisoners not receiving one hour's access to fresh air.

On reviewing the catering hours for the month of April 2017, Inspectors noted that several prisoners were consistently working eight hours a day, six days a week (a 48-hour week). One prisoner had worked every day for the month of April without a day off (four hours a day totalling 136 hours); one prisoner had worked 13 consecutive days, totalling 104 hours; and another prisoner had worked eight days in a row, totalling 64 hours.

The hours worked by some prisoners at the Prison contravened the International Labour Organisation standards<sup>5</sup> and the Nelson Mandela Rules.<sup>6</sup>

Corrections' response (July 2017):

*Corrections believes the receiving dock area provides adequate access to fresh air and a reasonable size yard for one hour of exercise per day.*

*Corrections will review the Prison's compliance as to prisoners' working hours, and will endeavour to employ more prisoners in the kitchen so that prisoners can have adequate days off. However, Corrections notes that some prisoners actively look to participate in the training and education delivered in the kitchen every day.*

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<sup>5</sup> International Labour Organisation Hours of Work (Industry) Convention Article 2 'The working hours of persons employed in any public or private industrial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed, shall not exceed eight in the day and forty-eight in the week'.

<sup>6</sup> Rule 102 of The Nelson Mandela Rules states: 'The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of prisoners'.



### Recommendation: activities and communications

- j. Cameras that monitor women being strip searched should be removed immediately.

Corrections did not accept recommendation j, and stated:

*The camera covering the search area is to ensure the safety of staff while they are conducting searches. However, the camera is not intended to capture footage of women while they are being strip searched. To ensure such footage is not captured, the search area F has now been marked to ensure that the women being subjected to strip searches do not enter the view of the camera. Signage has also been added to ensure that women know that if they stay behind the marked area the camera cannot view them but if they go in front of the line they will be captured on camera.*

Corrections' updated response (Feb 2017):

*I refer you to the Department's previous response to this recommendation, provided on 3 March 2016.*

### Inspectors' observations (May 2017) – not achieved

Inspectors viewed the area where strip searches were conducted and noted the camera was still in situ. The Prison had placed a line of tape on the floor to indicate to the women that if they moved beyond this area they would be on camera. The Residential Manager advised that the women do not go past this line. No signage to inform the women of the camera was noted by Inspectors.

Corrections' response (July 2017):

*Corrections repeats its earlier responses on that point: prisoners are made aware by staff that they will be not captured by the camera if they stay behind the red line on the floor.*

### Recommendation: activities and communication

- k. Arrangements should be made for women to receive their mail and property in a timely manner.

Corrections did not accept recommendation k, and stated:

*New arrangements have been made with the Regional Supervisor of the Dog Detector Team so that a Dog Handler is on site at Arohata Prison two days per week. This support will ensure mail and property is processed faster to allow timely delivery.*

Corrections' updated response (Feb 2017):

*I refer you to the Department's previous response to this recommendation, provided on 3 March 2016.*

## Inspectors' observations (May 2017)—achieved

Inspectors were advised that staff had been discussing the mail distribution on the day of the follow-up inspection. Generally, mail processing was carried out regularly although Inspectors were informed that on occasion there were delays with the Dog Handler processing mail. If the Prison had a large amount of property or mail they would contact the Dog Handler to arrange a visit. It was also reported that the Prison had not had any complaints in regards to prisoner's access to mail.

A six-month review of complaints in the Integrated Offender Management System (IOMS) was completed for the period 1 December to 30 May. Of the 127 complaints, two related to mail; one was about the wing mail box not being cleared daily by staff, the other was in respect of mail being delayed.

### Recommendation: activities and communications

- I. Privacy hoods should be fitted to telephones.

Corrections did not accept recommendation I, and stated:

*We take issues of privacy very seriously and take all possible steps to ensure that prisoner's privacy is maintained where possible and appropriate. However, we consider that prisoners are provided with acceptable levels of privacy when on the telephone. Additionally, in exceptional circumstances appropriate private arrangements can be made if a prisoner needs to make a private or sensitive telephone call.*

Corrections' updated response (Feb 2017):

*I refer you to the Department's previous response to this recommendation, provided on 3 March 2016.*

## Inspectors' observations (May 2017) – not achieved

Inspectors noted that Tizard Unit had a second phone located in the yard as well as the day room along with a dedicated lawyer's phone in an office area. However, neither phone had a privacy hood; conversations could clearly be overheard.

I suggest privacy hoods are fitted to telephones, so prisoners are not deterred from making confidential telephone calls and accessing support.

Corrections' response (July 2017):

*Corrections continues to reject this recommendation, and repeats its earlier comments, in particular that appropriate privacy arrangements can be made where a prisoner needs to make a private or sensitive call.*

### Recommendation: activities and communications

- m. Information kiosks should be repaired.

Corrections did not accept recommendation m, and stated:

*The Department is replacing all prisoner kiosks with new technology. The business case has been 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 but there is no definite date for Arohata Prison to receive the new kiosks at this time. In the interim, if prisoners wish to access any information that is held in the information kiosk, they can request it from unit staff who will provide it to them.*

Corrections' response (Feb 2017):

*Arohata Prison is now equipped with the new kiosks which can be used by prisoners wishing to access information.*

### Inspectors' observations (May 2017) – partially achieved

New kiosks were sighted in Tizard, the Secure Unit and Cartwright and were operational. The ARU still had an old kiosk which needed to be replaced.

Corrections' response (July 2017):

*This is not a repeat recommendation. The prior recommendation also related to kiosks in other units – the Draft Report notes that new and operational kiosks were in place in the Tizard, Secure and Cartwright units.*

*Corrections has therefore implemented the prior recommendation except with respect to the ARU. The information kiosk in the ARU is not going to be replaced due to the short-term nature of stays in the unit. All information is available through the manual processes managed by the staff.*

## 2017 Recommendations – activities and communications

I recommend that:

- a. All prisoners should be given the opportunity for at least one hour's exercise in the fresh air. **This is a repeat recommendation.**
- b. Cameras that monitor women being strip searched should be removed immediately. **This is a repeat recommendation.**
- c. Privacy hoods should be fitted to telephones. **This is a repeat recommendation.**
- d. Old information kiosk should be replaced in the At-Risk Unit. **This is an amended recommendation.**

## 2015 Recommendations – health care

### Recommendation: health care

n. Women’s access to dental services needs to be enhanced.

Corrections did not accept recommendation n, and stated:

*Funded hours for dental services have not reduced with the reduction in the site capacity after the decommissioning of three units in 2012. Current dental practice now includes remand prisoners receiving dental services as opposed to just emergency treatment.*

Corrections’ updated response (Feb 2017):

*I refer you to the Department’s previous response to this recommendation, provided on 3 March 2016.*

### Inspectors’ observations (May 2017) – not achieved

Inspectors were advised that an office space in the health centre had been identified to house a new dental suite. It was reported that the office area had been measured and an increase in dental hours approved.

Health staff were unable to confirm timeframes around the proposed roll out of the new dental suite. A copy of the dental waitlist was requested from the Health Centre Manager on 31 May and a copy received on 2 June. There were 42 prisoners on the waitlist of varying duration:

**Table 1: Dental waiting times**

Current	1 mth	2 mths	3 mths	4 mths	5 mths	6 mths	Unknown	Total
17	11	4	6	1	1	1	1	42

Generally, wait times for women prisoners appeared to be acceptable with the exception of the two prisoners in the four to five month category. It is envisioned that with the opening of the new dental suite and increased dental hours the waitlist at the Prison should reduce.

Corrections’ response (July 2017):

*Corrections now accepts this recommendation.*

*There is now a schedule in place where four prisoners every fortnight are escorted over to the dental suite at Rimutaka Prison. In addition to this, and as a result of the plan to increase capacity at Arohata Prison, funding has been made available to have a dental suite installed in the health area at Arohata Prison.*

### Recommendation: health care

o. Health complaints should not be placed in the general complaints system.

Corrections accepted recommendation o, and stated:

*The PC.01 complaints system is easily accessible to prisoners and we encourage their use of this system for all first-level complaints, as we are able to monitor that a response has been sent and the timeliness of that response.*

*The Health Centre Manager has been reminded that responses in the PC.01 system must not include clinical information. The response in IOMS will note where the response may be found, eg in the health complaints file.*

Corrections' updated response (Feb 2017):

*I refer you to the Department's previous response to this recommendation, provided on 3 March 2016.*

### Inspectors' observations (May 2017) – not achieved

Medical reported that patients still use the PC.01 complaint system to lodge a health complaint; however, their clinical information is no longer placed in IOMS. The response to the PC.01 will, however, note where the response to the complaint can be found.

A check conducted in IOMS still indicates that individuals' health information is still being recorded in IOMS.

A separate health complaints process needs to be established to ensure patients' privacy is respected.

Corrections' response (July 2017):

*Corrections accepts this recommendation.*

*Corrections accepts that health information should not be stored in IOMS. All staff will be reminded that health-related information should not be captured in IOMS, and conduct regular random monthly audits to ensure the practice is being followed. The Health Centre Manager will be responsible for ensuring this change in practice is adhered to.*

*There are a number of options available to prisoners when making a health complaint. These are communicated in the 'Managing Your Health in Prison' booklet which is issued to all new prisoners. The National Health Services Complaints Policy (currently being reviewed) also outlines how prisoners are able to maintain confidentiality when making a health complaint. Some of the options include:*

- *Making a written complaint on a Health Request Form or the HS 2.4.4 Health Complaint Form.*
- *Making a verbal complaint directly to health staff.*
- *Using the PC.01 system. Health staff will meet with the prisoner who has made a complaint using the PC01 system and after this meeting will enter a response into Section C of this system – no health or sensitive information will be provided in the response.*

## 2017 Recommendations – health care

I recommend that:

- a. Women’s access to dental services needs to be enhanced. **This is a repeat recommendation.**
- b. Health complaints should not be placed in the general complaints system. **This is a repeat recommendation.**

## 2015 Recommendations – general observations

### Recommendation: general observations

- p. A review of site security should be undertaken with some urgency.

Corrections accepted recommendation p, and stated:

*A security review has been completed at Arohata Prison and all gaps identified in the report have now been addressed. The Acting Deputy Prison Manager conducted random checks of entry to the site on Wednesday 3 February 2016 and can confirm the remedial actions are robust. Continual random checks will be conducted regularly during site visits.*

### Inspectors’ observations (May 2017) – achieved

At the time of inspection, a new gatehouse improvement project was underway. We were informed that this would lead to both structural and procedural improvements to prison security.

On arrival at the prison, Inspectors were asked to sign in and were processed through the metal detectors as were other visitors to the site. Inspectors were not asked to provide ID. At this time it was noted the door to the communication centre was open when we first arrived; however, on return to this area it was closed.

An overall improvement in site security was observed.

### Recommendation: general observations

- q. There should be a balance of male/female staff on nights.

Corrections accepted recommendation q, and stated:

*A review of the male/female staffing ratio will be conducted in February 2016. Findings of review and recommendations will be discussed with the Prison Director.*

## Inspectors' observations (May 2017)—achieved

The Prison operates a rotating roster system. We were advised that this roster is stable. Inspectors were informed that the prison has recently employed more female staff members. This was reflected in the staff breakdown as follows:

**Table 2: Staffing ratios**

Arohata	Female	Male	Rimutaka Upper Prison	Female	Male	Vacant	Total
	47	15		18	6	1	87

The roster for the week of 8 to 14 May reflected a clear female staffing presence.

Staffing levels on nights consisted of one Senior Corrections Officer and two Corrections Officers (COs). If there were prisoners in the ARU the number of COs was increased to three.

## Acknowledgements

I appreciate the full co-operation extended by the managers and staff to the Inspectors during their visit to the Prison. I also acknowledge the work that would have been involved in collating the information sought by the Inspectors.

## 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).

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.