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OPCAT Report

Report on an unannounced follow-up inspection of Christchurch Women's Prison Under the Crimes of Torture Act 1989


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Peter Boshier
Chief Ombudsman
National Preventive Mechanism

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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 1 and 2 November 2017, Inspector Eric Fairbairn and Inspector Emma Roebuck (to whom I have delegated authority to carry out visits of places of detention under COTA)¹ visited Christchurch Women's Prison (the Prison) to follow up on recommendations made in a previous OPCAT report (December 2014).

During the visit on 1 and 2 November 2017, the Inspectors visited all units and spoke with a selection of managers, staff and prisoners across the site. On the first day of the inspection, there were 121 prisoners in the Prison.

A voluntary, confidential and anonymous prisoners' questionnaire was distributed. The questionnaire is designed to capture prisoners' experiences and perceptions. The inspection team spoke with prisoners individually and in groups to explain the purpose of the questionnaire. Results of the questionnaire are just one of several sources of evidence used and triangulated by Inspectors to help them form judgements about the Prison.

One hundred and sixteen questionnaires were given out and 93 were returned (eighty percent). The questionnaire results will be used as part of a future findings report on the treatment of women prisoners.

Inspectors made seven recommendations in December 2014. Corrections has published all full OPCAT inspection reports on its website, and readers can refer to these published reports for Corrections' responses to our findings and recommendations.

The table below sets out Inspectors' 2014 recommendations and whether Inspectors found Corrections had achieved these at the follow-up inspection of November 2017.

2014 OPCAT recommendations and follow-up findings

2014 recommendations	Follow-up finding, 2017
Management cells are brought up to standard or alternative accommodation is made for prisoners undergoing a period of directed segregation.	Achieved
The Prison Manager ensures that all prisoners are offered the daily opportunity to take at least one hour in the open air and that full records are maintained documenting that process.	Partially achieved
Laundry facilities are available to the prisoners.	Partially achieved: see follow-up recommendations

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

2014 recommendations	Follow-up finding, 2017
Cameras are removed from the toilet area.	Not achieved: see follow-up recommendations
Privacy screens are installed around toilets.	Partially achieved: see follow-up recommendations
The current regime for youth prisoners is reviewed with a view to increasing unlock hours for those prisoners unable or unwilling to integrate into mainstream.	Partially achieved
Wings two and three are upgraded/redeveloped to fully accommodate the needs of the women in its care. Long term, the Department should consider replacing the existing accommodation blocks with a purpose built facility.	Not achieved

General observations at follow-up inspection (2017)

The Prison was clean and tidy. The atmosphere was generally relaxed with most low-security prisoners engaged in a range of work and other purposeful activities. A job expo was about to be held in the gymnasium to notify prisoners of the range of training and employment activities that were available. We commend the initiative.

High-security prisoners in Wings 2 and 3 had a more restrictive regime and spent their limited time out of cell in the exercise yards or sitting rooms. Prisoners complained about limited access to showers and telephones as a consequence of the limited unlock.

Staff-prisoner relationships were generally satisfactory although a number of prisoners said that some staff were less responsive than others in dealing with requests and providing information. Prisoners said that they received no feedback about 'next steps' following recently held focus groups, which were part of a Corrections' pilot programme to engage more actively with prisoners.

Low-security prisoners expressed concern about being transferred to Arohata Prison and Arohata Upper Prison² due to muster pressures, and described '*the impossibility*' of keeping in touch with family. Prisoners from Dunedin and Invercargill said that it was already very difficult and expensive for family to visit them in Christchurch and that it would be impossible for them to travel to Wellington. Keeping in touch by telephone would also be more difficult because of the 8am–5pm high-security unlock regime that operates in the Upper Prison (although the prisoners are low-security classification).

² Located in Rimutaka Prison grounds.

Staff and prisoners were highly critical of proposals to double-bunk the Self-Care Units in the Prison. They considered the bedrooms too small and questioned whether there would be sufficient low and minimum-security women prisoners to fill the spaces created.

A small number of issues were brought to the attention of the Management team at the time of our inspection, and we were pleased to note their prompt and effective response.

Corrections' comments on our follow-up observations are set out in Appendix 1.

2014 Recommendations—treatment

- a. Management cells are brought up to standard or alternative accommodation is made for prisoners in directed segregation. **Partially achieved**

Inspectors' findings 2017: recommendation a

A painting programme was underway in the Management Cells area, which helped to brighten the somewhat severe environment. Prisoners in the management cells had access to the range of items listed in Schedule 2 of the Corrections Regulations.

The necessary paperwork designating cells to be used to accommodate prisoners subject to segregation under sections 58 and 60 of the Corrections Act 2004 was examined and found to be in order.

Signed approval enabling the dry cell to be exempt from compliance with Schedule 2 Part B of the Corrections Regulations was dated and provided on the day of request.

- b. The Prison Manager ensures that all prisoners have the daily opportunity for at least one hour in the open air, and that full records are maintained documenting that process. **Partially achieved**

Inspectors' findings 2017: recommendation b

At the time of the follow-up inspection, two women were located in the Management Unit. One woman was temporarily employed as a painter in the unit and spent much of her day working. The other young woman had easy access to the exercise yard.

We spoke with prisoners, examined records and were satisfied that there had been improvements in providing prisoners with a copy of their segregation paperwork.

There were two women located in the At-Risk Unit. We were pleased to observe that staff were actively engaged in providing prisoners with activities and diversions to fill their day.

Improvements to the recording process for prisoners' access to fresh air and showers have been made. The desk diary for the Management Cells and At-Risk Unit contained daily entries

that were signed off by supervisors. Some entries were incomplete and we would encourage further progress in record keeping and assurance arrangements.

c. Laundry facilities are available to the prisoners. **Partially achieved**

Inspectors' findings 2017: recommendation c

We were pleased to note improvements in the laundry arrangements for personal items. It was explained that prisoners in Wings 2 and 3 had personal items washed three times per week while prisoners in Wing 1, which is the largest unit with the highest number of prisoners engaged in activities, get a laundry service twice a week.

We were advised that Wing 1 has its own washing machine. On inspection, however, we found that there were difficulties around the provision and control of washing powder, which meant that prisoners were using shampoo in the washing machine to wash their clothes, which was unsatisfactory.

d. Cameras are removed from the toilet area. **Not achieved**

Inspectors' findings 2017: recommendation d

Corrections' position is that the use of cameras is necessary to safeguard the wellbeing of prisoners who are assessed as at risk of self harm, and in the Management cells. Prisoners were constantly monitored by CCTV, even when using the toilet, which was unscreened. The camera feed was displayed on TV monitors in the respective unit office and master control. The monitors could be viewed by anyone entering the office and presented a significant privacy issue.

Corrections' policy for toilets in ARU cells to be unscreened³ gave prison staff (and others) the ability to observe prisoners, either directly or through camera footage, undertaking their ablutions or in various stages of undress. I consider this amounts 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. I consider that amending Schedule 2 Part C should be considered.

e. Privacy screens are installed around toilets. **Partially achieved**

³ Cells for the management of at-risk prisoners in the privately operated Auckland South Corrections Facility afford prisoners an appropriate degree of privacy and dignity.

Inspectors' findings 2017: recommendation e

We were pleased to note that cells in the wings have had privacy screens installed.

There are still no privacy screens in the toilet areas in the ARU and Secure Unit. I still consider prison staff (and others) having the ability to observe prisoners, either directly or through camera footage, 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 had been established by Corrections to review privacy issues in both ARUs and Separates cells. While the working group undertook some initial work in this area, it has since highlighted the need for a specific project led by the Corrections Chief Custodial Officer to consider other factors⁴. It is expected this will identify potential options around prisoner privacy. The project is expected to report back in August 2018.

- f. The current regime for youth prisoners is reviewed with a view to increasing unlock hours for those prisoners unable or unwilling to integrate into mainstream. **Partially achieved**

Inspectors' findings 2017: recommendation f

There were two youth prisoners in the Prison at the time of the follow-up inspection. One was a new mother and was located in the Mother and Baby Unit in Self-Care, the other was in the At-Risk Unit. Her care plan, which was filed in the ARU, was 'sketchy' and primarily focussed on risk management. There was no detail of any therapeutic input. Further investigation showed that there was a broad, multi-disciplinary range of support being provided to the young woman. One area for improvement would be better information sharing and collation of one comprehensive care plan.

2014 Recommendation – material conditions

- g. Wings two and three are upgraded/redeveloped to fully accommodate the needs of the women in its care. Long term, the Department should consider replacing the existing accommodation blocks with a purpose-built facility. **Not achieved**

⁴ Factors include: current international practice, Justice Sector partner and Mental Health facilities practices, in order to better inform understanding of privacy measures in ARUs and separate cells.

Inspectors' findings 2017: recommendation g

At the time of the 2014 inspection, Corrections did not consider that the age and design of Wings 1 and 2 inhibited staff from meeting the needs of prisoners and had no immediate plans to upgrade, redevelop or replace these units.

In light of the stated aims of the Women's Strategy 2017—2021⁵, which was launched at the Prison in August 2017, it may now be appropriate to provide a more suitable environment to support a fresh approach to managing increased numbers of women prisoners.

We did note that prisoners in Wings 1 and 2 spent a long time locked up, due in part to staff shortages. This observation was supported by the results of our questionnaire⁶ in which two thirds of respondents stated that they were unlocked for four hours or less each day. About one third of respondents reported they did not have daily access to showers. Access to fresh air and exercise, which is a legal entitlement, was said to be difficult by a quarter of respondents.

On-going staff shortages also appeared to inhibit the provision of '*a diverse range of rehabilitative, educational and recreational activities*', with 60 percent of questionnaire respondents reporting that they were not engaged in any purposeful activity.

Similarly, options for the separation of prisoners on voluntary segregation were limited by the design and layout of the wings, which curtailed opportunities for prisoners on voluntary segregation to have access to a '*normal regime*' as described in sections 49–52⁷ of the Corrections Act 2005.

We also note that a number of exemptions had been granted to allow mixing of remand accused, and convicted and sentenced prisoners. One pragmatic reason for such exemptions is to override statutory safeguards to allow wider access to programmes, activities and interventions, which we would support. However, when such purposeful activities are not taking place, the reason may be more a matter of administrative convenience, which is not acceptable.

⁵ Wāhine—E rere ana ki te Pae Hou: Women's Strategy 2017–2021

⁶ Ninety-three women responded to the question.

⁷ Section 49 states that prisoners are assessed on reception and have their identified needs addressed; section 50 requires the Chief Executive to ensure that prisoners are provided with opportunities to make constructive use of their time in prison; section 51 deals with management plans; section 52 establishes a responsibility to provide rehabilitative programmes.

2017 follow-up recommendations

Treatment

I recommend that:

- a. Record keeping and assurance arrangements for documenting prisoners' access to minimum legal entitlements should be improved.
- b. Laundry arrangements for Wing 1 should be improved.
- c. Cameras should not cover the toilet in At-Risk cells and Management cells. **This is a repeat recommendation.**
- d. Privacy screens should be installed around toilet facilities in the At-Risk cells and Management/Separate cells. **This is a repeat recommendation.**
- e. Comprehensive care plans developed by multi-disciplinary teams should inform the treatment of vulnerable prisoners and be accessible to all staff responsible for their care.

Material conditions

- f. High-security prisoners, including voluntary segregated prisoners, should spend more time out of cell engaged in purposeful activities.

Corrections:

- **accepted** follow-up recommendations a, b, and e
- **partially accepted** follow-up recommendations c and d and
- **rejected** follow-up recommendation f.

See Appendix 1 for Corrections' detailed comments on the follow-up recommendations.

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 Acting 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 1989, 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. Corrections' response to 2017 follow-up findings and recommendations

General comments

As with the response to the Upper Prison (Arohata) report, Corrections acknowledges the difficulties and challenges surrounding the rapid growth in the women's prison population. A number of improvements have been undertaken at Christchurch Women's Prison since the original visit which the Ombudsman has commented on.

Corrections has a number of comments in response to the findings and follow-up recommendations made by the Ombudsman and we have addressed these below.

Women's Strategy

You have noted the launch of the Women's Strategy may make it appropriate for Corrections to "provide a more suitable environment to support a fresh approach to managing increased numbers of women prisoners".

There are a number of initiatives underway which will enhance service delivery to women at Christchurch Women's Prison. This includes the appointment of a Social Worker and Counsellor, as well as a Fitness and Wellbeing Trainer, increasing access to the Kowhiritanga programme, improved access to primary mental health services and a move to trauma informed practice. The Kaupapa Maori focused unit is anticipated to open in March 2018 with the site currently undertaking the recruitment process to appoint a Kaiāwhina.

Lock and unlock hours

You have reported that prisoners in Wings 1 and 2 spent "a long time locked up, due in part to staff shortages". The site is currently fully staffed and staff shortages on any given day are a result of staff absence or business requirements necessitating staff being redeployed to activities such as hospital guards or court escorts. Aside from this, prisoners are not impacted and there is no change to daily routines.

Wing One prisoners are unlocked for a minimum of eight hours, Monday to Friday, and six hours over the weekend. Wings 2 and 3 are unlocked for four hours each day. Segregated prisoners are unlocked for a minimum one hour per day. From time to time operational needs mean that specific units or the site may be locked for additional periods of time; however this is not wide-spread and does not significantly impact on prisoners' access to activities.

Access to showers

The report indicates prisoners in Wings 2 and 3 complained about having limited access to showers. All prisoners have daily access to showers and there are no barriers to shower access during unlock hours.

Access to phones

Similarly, the report indicates prisoners also complained about limited access to phones. Prisoners do have readily available access to phones in their units. However on occasions, call lengths may be limited by staff in order to ensure that all prisoners have reasonable access.

Transfers

A number of low security prisoners expressed concern about being transferred and the challenge this presents for them in terms of remaining engaged with their families. Many women prisoners find themselves incarcerated at a distance from their families and other support people and every effort is made to assist them to maintain contact.

Aside from regular visiting opportunities sites also regularly accommodate special visits outside these times to enable out of town visitors to spend time with the women. Women are also advised of the option of AVL contact with families and this is popular amongst prisoners and their families. In the period since 1 October 2017, Christchurch Women's Prison has supported 19 AVL family visits for women who are away from their families.

Due to the increasing number of women in prison, it is inevitable transfers will continue between the female prisons to safely accommodate prisoners. Where possible, the Department will take all appropriate steps to ensure prisoners are able to remain in contact with their families if they are transferred out of region.

Double bunking

You have commented that "staff and prisoners were highly critical of the proposal to double bunk the Self Care units". Corrections has proposed double bunking in the self care units as a temporary response to the increasing women's prison population. Extensive planning is underway to ensure that this is managed in a way that minimises the impact on the women, including seeking input from them regarding their concerns and possible options for addressing this.

Follow-up recommendations

- a. Record keeping and assurance arrangements for documenting prisoners' access to minimum legal entitlements should be improved.**

Corrections accepted this recommendation, and commented:

We acknowledge your comments that improvements have been made to the recording process for prisoners' access fresh air and showers. We also accept the comment that some entries for prisoners held in At Risk Unit and Management Unit are incomplete. In response, the Prison Director will provide a reminder to staff to ensure this is recorded as required and checked daily by a Principal Corrections Officer. A secondary assurance check will be undertaken within three months to assess compliance.

- b. Laundry arrangements for Wing 1 should be improved.**

Corrections accepted this recommendation, and commented:

We note your comments regarding the improvements to laundry arrangements. With regard to your concerns about the provision of washing powder in the prison, the site is changing to a liquid formula which will be issued to all units by 31 January 2018.

- c. Cameras should not cover the toilet in At-Risk cells and Management cells. This is a repeat recommendation.**

Corrections partially accepted this recommendation, and commented:

We acknowledge balancing the privacy of prisoners and ensuring vulnerable prisoners are safely managed in our care is difficult. Whilst we endeavour to ensure the privacy of all prisoners is maintained, there are instances where vulnerable prisoners are observed for their own safety. To address this, a National Working Group (established last year) will consider changes to provide vulnerable prisoners with greater personal dignity and privacy. I understand your office is aware of the work underway around this.

- d. Privacy screens should be installed around toilet facilities in the At-Risk cells and Management/Separate cells. This is a repeat recommendation.**

Corrections partially accepted this recommendation, and commented:

As mentioned above, the National Working Group will take this recommendation into consideration.

- e. Comprehensive care plans, developed by multi-disciplinary teams should inform the treatment of vulnerable prisoners and be accessible to all staff responsible for their care.**

Corrections accepted this recommendation, and commented:

Your reference to the “broad, multidisciplinary range of support being provided” to the vulnerable young woman at Christchurch Women’s Prison was encouraging to read. It is accepted that our current documentation does not reflect our multidisciplinary approach to planning and delivering care, nor does it provide an effective means of communicating this joined up approach. Since your visit, we have started trialling a new document which provides a single, accessible location for recording the plan and interventions delivered to individual prisoners, and which will also contain a weekly multidisciplinary team summary. This will be in place by 31 January 2018.

f. High-security prisoners, including voluntary segregated prisoners should spend more time out of cell engaged in purposeful activities.

Corrections rejected this recommendation, and commented:

It was pleasing to read that the inspectors have acknowledged prisoners in the At Risk Unit are provided with opportunities to mix and that a prisoner in the Management Unit was engaged with temporary employment.

We have, however, rejected this recommendation as high security prisoners have access to a range of programmes and interventions, subject to meeting course criteria. These include rehabilitation programmes (including Alcohol and Other Drugs interventions), secure online learning, driver’s licence courses, educational opportunities through which they can receive literacy support and obtain core credits, health and wellness activities, employment focus programmes, the Strength Finders course, and cultural programmes.

Segregated prisoners may have access to activities. Access remains dependent on our ability to appropriately manage their safety and the safety of others.

Appendix 2. 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.