



Minister for Commerce  
Minister for Finance  
Minister for Industrial Relations  
Minister for Ageing  
Minister for Disability Services  
Leader of the Government in the Legislative Council

15 January 2006

Mr John Evans  
Clerk of the Parliaments  
C/- Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Evans

I refer to the Legislative Council Inquiry – *Issues relating to the operations and management of the Department of Corrective Services*.

Enclosed is the New South Wales Government's response to the recommendations of the Committee's report.

I trust that the Government response will be of assistance to the Committee.

Yours sincerely

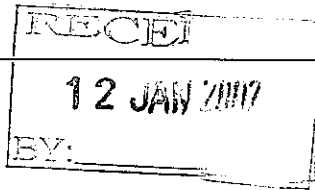
John Della Bosca MLC

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New South Wales

The Hon Tony Kelly MLC  
Minister for Justice  
Minister for Juvenile Justice  
Minister for Emergency Services  
Minister for Lands  
Minister for Rural Affairs  
Minister for Volunteering  
Leader of the House - Legislative Council



10 January 2007

Hon John Della Bosca MLC  
Minister for Commerce, Minister for Finance,  
Minister for Industrial Relations, Minister for Ageing,  
Minister for Disability Services, Vice-President of the Executive Council, and  
Leader of the House

Dear Minister

I write concerning the recent Upper House Inquiry into issues relating to the operations and management of the Department of Corrective Services.

Please find attached the Government response to that Inquiry which needs to be tabled out of Session by the Leader of the House.

As the said document has been through the Cabinet process I would appreciate it if you would arrange for its tabling with the Clerk of the Parliaments, as soon as possible.

Yours sincerely

**Hon Tony Kelly MLC**  
Minister for Justice

**Legislative Council Inquiry – Issues relating to the operations and management of the Department of Corrective Services – Government Response**

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**Recommendation No 1 – That the Department of Corrective Services and Corrective Services Industries, in consultation with the Corrective Industries Consultative Council, develop and publish a guide to the operation of Corrective Services Industries with regard to the avoidance of unfair competition with existing businesses, including:**

- **the obligations of CSI with regard to the avoidance of unfair competition with existing businesses, and**
- **comprehensive information about the complaint resolution process.**

The Department of Corrective Services has advised that Corrective Services Industries (CSI) is prepared to make available, through the Department's internet site, documents which explain Competitive Neutrality, and CSI's already-stated stance that it will not enter markets where its entry would adversely affect private sector manufacturers.

The Grievance Handling mechanism contained within the Corrective Industries Consultative Council (CICC) Charter will be amplified to clearly lead any complainant through the process to be followed. The DCS/CSI website will be updated accordingly.

The Department also advises that the CICC has been consulted on the Committee's recommendation and endorses this response.

**Recommendation No 2 – That, in order to assist industry groups, businesses and the wider community to better understand the role and operations of Corrective Service Industries, Corrective Services Industries list on its webpage all current and future Corrective Services Industries publications and make them available to download from the webpage free of charge.**

The Department of Corrective Services advises that the Department and the Corrective Services Industries Consultative Council have agreed that those publications which are not "commercial-in-confidence" will be displayed and available for download from the DCS/CSI website from early 2007.

**Recommendation No 3 – That the Department of Corrective Services produce information outlining the key aspects of the security classification system, the high security and extreme high security designations, and segregated and protective custody, for both serious offenders and prisoners other than serious offenders, and that the Department publish this information on its website and otherwise make the information available to members of the public.**

The Department of Corrective Services advises that this Recommendation could be implemented by inclusion of a brief explanation of the security classification system and of segregated and protective custody directions during the inmate reception, screening and induction program, whilst an explanation of high security and extreme high security designations could be given to serious offenders upon reception, screening and induction.

The Department notes that the *Crimes (Administration of Sentences) Act 1999* and *Crimes (Administration of Sentences) Regulation 2001* are available to inmates in all correctional centres and to the public on the internet. Clauses 22-25 of the Regulation relate to classification and designation, and are self-explanatory. Likewise, sections 10-11 of the Act (providing for decisions relating to segregated custody directions and protective custody directions) are self-explanatory.

**Recommendation No 4 – That the Minister for Justice review the application of the AA/5 classification to remandees.**

The Minister notes the matters raised by the Committee but for the reasons outlined below does not support this Recommendation at this time.

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It was the Government's intention, when the AA/5 classification was introduced, that it applies to inmates *charged or convicted* of terrorist offences. The *Crimes (Administration of Sentences) Regulation 2001* provides that the classification may be applied to "the category of inmates who, in the opinion of the Commissioner, represent a special risk to national security (for example, because of a perceived risk that they may engage in, or incite other persons to engage in, terrorist activities)..."

The Committee notes "not all persons charged with or convicted of terrorist offences will be classified as AA/5. Rather, such prisoners are subject to a security risk assessment by the Department and such assessment forms the basis of a recommendation to the Commissioner as to the classification of those persons."<sup>1</sup>

The classification is based on risk. No evidence has been produced to suggest that a risk to national security can only arise from a convicted inmate and not from a remand inmate; or that the risk from a convicted inmate is greater than a risk from a remand inmate.

**Recommendation No 5 – That the Department of Corrective Services investigate the merits and feasibility of implementing a rehabilitation program for sex offenders who are in denial of their offence.**

The Department advises that there are two broad categories of sex offender "deniers": (a) those who claim somebody else committed the offence, and (b) those who admit the sexual activity but claim it was consensual, and therefore not an offence; or otherwise question the details of the offence.

The Department is developing a program for the second group of deniers, who can be treated for issues relating to the recognition of consent, victim empathy etc. Most deniers fall within this group. The program is organised into open groups which sex offenders enter and leave as their individual therapy needs dictate. These changes have already achieved better treatment outcomes for, and increased participation of, Aboriginal

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<sup>1</sup> Paragraph 3.144, page 58.

offenders who traditionally struggle with the level of disclosure required in these types of programs.

There is no program available, or feasible, for those who deny the offence on the basis of mistaken identification of the perpetrator.

**Recommendation No 6 – That, in order to better inform the public as to the link between the High Risk Management Unit (HRMU) correctional philosophy and improvements in the behaviour of HRMU inmates, the Department of Corrective Services publish a paper on its study of assaults and other correctional centre offences committed by HRMU inmates upon completion of the study.**

The Department of Corrective Services publishes on its website a number of papers compiled by its Corporate Research, Evaluation and Statistics Unit. Consideration will be given to publishing a paper on this study when it is complete, depending upon any privacy or security implications that arise.

**Recommendation No 7 – That the Commissioner of Corrective Services ensure that segregated custody directions are issued in respect of all prisoners housed in the High Risk Management Unit at Goulburn Correctional Centre who do not have association privileges.**

The Department of Corrective Services advises that it supports this recommendation.

The Department has recently instituted some administrative changes concerning the management of AA and Category 5 inmates<sup>2</sup>. The most significant change is the removal of the requirement for AA or Category 5 inmates to be isolated for the purpose of conducting an initial assessment. This group of inmates will now only be subject to a segregated custody direction if the person is assessed as either a threat to security, or to the good order and discipline of the correctional centre, or is a threat to the personal safety of another person.

The Department's Operations Procedures Manual has also been updated to clarify the position of those AA or Category 5 inmates who have been placed in the HRMU for accommodation purposes only rather than for inclusion in the HRMU program unless there has been an assessment against the stated criteria for that program and subsequent approval.

The section of the Operations Procedures Manual dealing with AA and Category 5 inmates has also been subject to a general revision to ensure all aspects of the management of these inmates is lawful, ensures proper security safeguards and is in accordance with the principles of duty of care.

**Recommendation No 8 – That the Department of Corrective Services and Justice Health monitor their practices in respect of the referral of mentally ill persons to the**

<sup>2</sup> Deputy Commissioner's Memorandum No 2006/037, 17 October 2006.

**High Risk Management Unit at Goulburn Correctional Centre, and the release of mentally ill persons from the High Risk Management Unit to other facilities within the correctional system.**

All Government agencies are encouraged to monitor their practices to ensure that best practice options are provided for their clients. The Government notes with approval the evidence provided to the Committee that the Department of Corrective Services and Justice Health work closely together to promote the mental health of HRMU inmates.

**Recommendation No 9 – That the Department of Corrective Services continue to work towards the development of guidelines regarding the security screening of persons wearing items of cultural and/or religious significance, and that it continue to consult with interested stakeholders on this issue.**

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The Government supports this recommendation, and commends the Department of Corrective Services and the Community Relations Commission in their initiatives to date.

The Community Relations Commissioner referred to consultation between the Commission and the Department in his evidence to the Committee.

In response to the Ombudsman's review of the *Crimes (Administration of Sentences) Amendment Act 2002*, the Department of Corrective Services supported a Recommendation that the Department develop guidelines concerning searches of clothing and items of cultural or religious significance in consultation with the Community Relations Commission and ethnic communities likely to be affected by the guidelines.

Section 12.10.3 of the Operations Procedures Manual currently states:

“If headwear is worn by a visitor for cultural or religious reasons the following procedures must be adhered to:

- a) Requests to remove such headwear may only be made where the correctional officer suspects on reasonable grounds that the person has in his or her possession or under his or her control anything that has been used, is being used, or is intended to be used in or in connection with the commission of an offence under Section 27F(1) of the *Summary Offences Act 1988*.
- b) Removal of any such headwear must take place in a private area away from public view.
- c) Removal of any such headwear must be supervised only by an officer(s) of the same gender as the visitor.
- d) At all times the dignity of the individual must be respected.
- e) Following such a search, if the visit can legitimately proceed, the visitor is entitled to subsequently wear the headwear concerned.”

**Recommendation No 10 – That the Department of Corrective Services and the Department of Ageing, Disability and Home Care investigate extending the pilot project between the Community Justice Support Network and the Disability**

**Services Unit to identify possible solutions to barriers to access for persons providing support to intellectually disabled prisoners.**

The Government supports this Recommendation.

The Department of Corrective Services advises that it will investigate those barriers to access for support persons identified in the pilot scheme in order to identify appropriate solutions.

The Department has endorsed the Community Justice Support Network (CJSN) program referred to in the Committee's Report<sup>3</sup>, with the acknowledgement that additional time is required for CJSN support for offenders who had been supported by CJSN in the community before going into custody. Authorised Visitor status is being arranged for CJSN staff, and it is intended that a Commissioner's Memorandum will be circulated about CJSN services once the Authorised Visitor process is completed.

**Recommendation No 11 – That the Department of Corrective Services continue to work towards the provision of suitable facilities for legal visits for prisoners on protective custody at Parklea Correctional Centre.**

The Department of Corrective Services advises that it will continue the work noted by the Committee.

**Recommendation No 12 – That the Department of Corrective Services continue consultation with the Legal Aid Commission, and consult with the NSW Law Society and the NSW Bar Association, to determine the extent of difficulties experienced by legal representatives caused by restrictions on visiting hours at NSW correctional centres, and to develop appropriate solutions.**

The Department of Corrective Services advises that it will continue the work noted by the Committee.

The Department's Executive Director Legal Services and Corporate Counsel represents the Department on the Law Society's Criminal Law Committee and liaises with the Legal Aid Commission and the Bar Association regularly. Both the Commissioner of Corrective Services and the Director-General of the Legal Aid Commission are members of the Justice Cluster Chief Executive Officers Standing Committee, which meets regularly to discuss inter-agency issues.

**Recommendation No 13 – That the Department of Corrective Services develop an information strategy to ensure that prospective parole transferees are made aware of the need to initiate the parole transfer process at least three months prior to their likely release date, and that the Department provide assistance to prospective parolees to enable them to make their applications in good time.**

<sup>3</sup> Paragraph 6.38, page 106

The Government supports this Recommendation. Implementation of an appropriate information strategy will lessen any concerns that the changes in parole legislation will result in inmates spending longer in custody whilst waiting for their parole orders to be transferred.

The need for an application for an interstate parole transfer should arise at an early stage during discussions about the offender's post release plans between an offender and a probation and parole officer at the offender's gaol of classification.

The national guidelines in respect of the interstate transfer of parole are expected to highlight the need for early action in respect of the making of applications for transfer. The issue of the interstate transfer of parole is the subject of ongoing action by the Correctional Services National Working Party and Operations Group charged with the task of developing appropriate operational guidelines for the interstate transfer of parole.

**Recommendation No 14 – That the Department of Corrective Services continue to work towards the adoption by all states and territories of standard national guidelines regarding the administration of the parole transfer system, and that the guidelines incorporate appropriate arrangements for the short term transfer of parolees required to move regularly across jurisdictional boundaries, including parolees resident in border regions and Indigenous parolees.**

The Government supports this recommendation.

In late November 2006, the Department of Corrective Services hosted the Correctional Services National Working Party and Operations Group Conference that considered, among other things, the interstate transfer and registration of parole orders. All Australian States and Territories were represented at the conference at the Corrective Services Brush Farm Academy.

The National Working Group is developing national operational guidelines in respect of the interstate transfer of parole orders and the short-term interstate transfer of parole orders. The Working Party has agreed on an optimal Strategic Direction and is currently working towards achieving a national scheme. The ultimate form of the operational guidelines are being negotiated and the Working Party will meet again in due course.

**Recommendation No 15 – That the Department of Corrective Services monitor the impact of recent and proposed changes to the parole transfer scheme on the case management of parole transferees.**

As noted in the response to Recommendation 14, the National Working Party and Operations Group is working on the system for the interstate transfer of parole. There have been no legislative amendments since the Committee published its Report.

**Recommendation No 16 – That the Attorney General and the Minister for Justice monitor the operation of the prisoner transfer scheme to determine the extent of any delays in the scheme and to identify and assess proposals to reduce delays.**



The operation of the prisoner transfer scheme is monitored by the Department of Corrective Services on an ongoing basis. Any contentious issues will be identified as a matter of course and, where necessary, brought to the Minister's attention.

The interstate transfer of prisoners is a re-occurring agenda item at the national Corrective Services Ministers' Conference and the Corrective Services Administrators' Conference.