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# Report on an unannounced inspection of Department of Corrections' Arohata Prison Under the Crimes of Torture Act 1989

12 January 2012

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Beverley A Wakem  
Chief Ombudsman  
National Preventive Mechanism

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## Executive Summary

### Background

1. 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.
2. On 12 January 2012, Inspectors (COTA) Greg Price and Jacki Jones (to whom I have delegated authority to carry out visits of places of detention under COTA) visited Arohata Prison (the Prison).

### Findings

3. The Inspectors were pleased to note a number of positive findings during their visit, for example:
  - There was no evidence that any prisoner had been subject to any treatment which could be construed as torture in the six months preceding the visit.
  - There was only one prisoner on directed segregation on the day of the visit and all paperwork in respect of that prisoner was completed within the required time frames.
  - There were no issues of concern arising from the use of force in the Prison.
  - The Prison has a robust complaints system in place for prisoners.
  - Disciplinary procedures were completed within the required time frames and the Punishment Book was completed to a good standard.
  - The prison grounds and units were clean and tidy and well organised.
  - The Inspectors had no concerns with the level of outdoor exercise prisoners can access.
  - Primary health care services are available to all prisoners.
4. There were, however, a couple of issues that needed addressing with some urgency:
  - Whilst there was no evidence that any prisoners had been subject to treatment which might have contravened the Crimes of Torture Act in the six months preceding the visit, requiring a prisoner to shower in the open air, whilst potentially being observed on camera, is inappropriate and could amount to degrading treatment.

- With the exception of s6(c), accommodation in the Prison is looking tired and dated and in need of refurbishment.

## Recommendations

5. I recommend that:

- The practice of using the outdoor shower facilities in the secure cells needs to cease until such time as a solution can be found to rectify the issue of prisoners' privacy.
- s6(c) the Drug Treatment Units need to be refurbished, including the shower facilities. Some extra or a bigger communal area(s) needs to be incorporated in the refurbishment.

## Consultation

6. A draft copy of this report was forwarded to Prison Services National Office for comment as to fact, finding or omission prior to finalisation and distribution. General Manager Prison Services' comments have been included below.

## Prison Services comments

Thank you for the opportunity to comment on the above report. I note that there is no evidence that any prisoner has been subject to treatment that might have contravened the Crimes of Torture Act (COTA) 1989 in the six months preceding the visit.

I also note that a number of positive findings were identified during the inspection.

The report makes two recommendations which I will address individually.

*a) The practice of using the outdoor shower facilities in the secure cells needs to cease until such time as a solution can be found to rectify the issue of prisoners' privacy.*

All prisoners accommodated in the Secure Unit are given the option of having showers in the At Risk Unit. This arrangement will remain in place until the new shower block is built.

A new shower block for the Secure Unit is on the Prison Services Capital Plan. It is anticipated that the business case for the funding of the shower block will be approved by end of March 2012 and the new shower block installed by 31 July 2012.

b) <sup>s6(c)</sup> [REDACTED] the Drug Treatment Units need to be refurbished, including the shower facilities. Some extra or a bigger communal area(s) needs to be incorporated in the refurbishment.

The refurbishment of <sup>s6(c)</sup> [REDACTED] is on the Facilities Maintenance Refurbishment Plan. This, however, depends on finance being approved and the outcome of the Prison Services Reconfiguration Project currently in progress.

<sup>s6(c)</sup> [REDACTED] and the Drug Treatment Units had a Conditional Assessment completed by the company contracted by the Department (Spotless) to maintain its assets. Currently these units have not reached a threshold requiring refurbishment. However, these units will be monitored and any maintenance work required will be completed on an ongoing basis.



## Fact page

### Arohata Prison (the Prison)

Arohata Prison is one of New Zealand's three women's prisons and accommodates 154 prisoners with security classifications ranging from minimum to high-medium. The Prison also accommodates prisoners on remand. The Prison was built in 1944 and was originally a women's borstal. It became a youth prison in 1981 and a women's prison in 1987. The prison is located in Wellington and employs 73 staff.

### Region

The Prison is part of the Prison Services' Southern Region.

### Operating capacity

154

### Last inspection

Unannounced inspection, January 2012.

Announced, informal visit, July 2008.

## The visit

1. Arohata Prison (the Prison) was visited on 12 January 2012. The visit was conducted by Inspectors Greg Price and Jacki Jones.<sup>1</sup>

## Visit methodology

2. The Inspectors requested that some information be made available during the visit. This included:
  - The number and category of complaints for the previous six months.
  - The Control and Restraint (C&R) refresher training register for staff.
  - Access to the Punishment Book.
  - All current directed segregation paperwork.
  - Use of force paperwork for the previous six months.
3. At the commencement of the visit the Inspectors met with the Residential Manager, <sup>s9(2)(a)</sup> [REDACTED], before making their way around the Prison. On the day of the visit there were 94 prisoners in the Prison.
4. Whilst it is not always possible for the Inspectors to examine all aspects of detention during the visit, the following areas were examined on this occasion.<sup>2</sup>

## Treatment

- Torture, or cruel, inhuman or degrading treatment
- Directed segregation
- At Risk Unit (ARU)
- Use of Force

## Protective measures

- Complaints process
- Disciplinary procedures

## Material conditions

- Accommodation
- Sanitary conditions

## Regimes and activities

- Outdoor exercise
- Leisure activities

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<sup>1</sup> Acting under delegation of the National Preventive Mechanism (NPM) Chief Ombudsman Beverley A Wakem and Ombudsman David McGee.

<sup>2</sup> Our inspection methodology is informed by the Association for the Prevention of Torture's Practical Guide to Monitoring Places of Detention (2004) Geneva, available at [www.ap.t.ch](http://www.ap.t.ch).

## Specific primary health care

- Primary health care services

## Treatment

### *Torture or cruel, inhuman or degrading treatment*

5. There was no evidence that any prisoners had been subject to any treatment which could be construed as torture in the six months preceding the visit.

### *Directed segregation*

6. There was only one prisoner on directed segregation on the day of the visit. All the necessary paperwork was completed and signed within the required time frame and the prisoner had received a copy of the paperwork. The prisoner was being housed in the prison's secure unit.
7. The secure unit was clean and tidy and well maintained. The unit can house up to eight prisoners undergoing a period of cell confinement or segregation. All cells have their own toilet, and an outdoor shower facility that doubles as an exercise area. Prisoners in secure cells and yards are monitored by cameras.



Secure cell



Secure yard with shower

8. Whilst acknowledging the efforts made by the Prison to address the issue of privacy in the secure unit showers, requiring prisoners to shower in the open air, whilst possibly being observed on camera, is inappropriate and could potentially amount to degrading treatment.

### *At Risk Unit (ARU)*

9. The ARU, along with the secure unit, is a relatively new addition to the Prison. There are three safe cells and one round room in the ARU. The safe cells have

toilet and hand washing facilities, and a table and chair. The round room is an empty room with a mattress.



Safe cell



Round room

10. The cells were clean and tidy and free of graffiti. On the day of the visit there were two prisoners in the ARU. Both prisoners were under the care of the forensic team. Due to their heightened agitated state, the Inspectors did not speak with either prisoner.
11. The paperwork relating to the prisoners in the ARU was completed to a reasonable standard and reviewed by a manager on a daily basis.
12. The Inspectors had no concerns with the running of the ARU and commend the staff for managing, what can be at times, very challenging prisoners.

#### *Use of Force*

13. There were nine use of force incidents involving six prisoners for the six months preceding the visit. This is an average of 1.5 use of force incidents per month, which is relatively low.
14. All staff were up to date with their control and restraint refresher training.

#### *Recommendations - Treatment*

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- The practice of using the outdoor shower facilities in the secure unit needs to cease until such time as a solution can be found to rectify the issue of prisoners' privacy.

## Protective measures

### *Complaints process*

15. There were 95 recorded complaints in the Prison for the period July – December 2011. All complaints were responded to within the required time frames.

16. The top four complaints can be broken down into the following categories:

Complaint category	Number	Percentage
Request for Information	17	17.9
Prison Health Service	15	15.8
Other	14	14.7
Prisoner Property	11	11.6

17. The Prison has a comprehensive complaints management system in place and the Inspectors had no concerns with the complaints process at the Prison.

### *Disciplinary procedures*

18. There were 117 misconducts for the period June – December 2011. Of those, 15 complaints were withdrawn making an average of 14.5 misconducts per month.

19. All charges were heard within the required time frames and the Punishment Book was completed to a high standard.

20. The Inspectors had no concerns with the disciplinary process at the Prison.

### Recommendations – Protective measures

- I have no recommendations to make.

## Material conditions

### *Accommodation*

21. The Prison has seven units (including the self-care villas, which the Inspectors did not visit). On the day of the visit, <sup>s6(c)</sup> [REDACTED] was closed due to the low women's muster nationally.

22. <sup>s6(c)</sup> [REDACTED] are the same design and house low to high-medium prisoners. Although all the units and cells were clean and tidy, they looked tired and shabby and in need of refurbishment (see photos over page).





Single cell in s6(c)

s6(c)

23. Each unit has a dining room/communal area where prisoners can congregate, if they choose. However, space is limited in some of the units and facilities are basic.



s6(c)

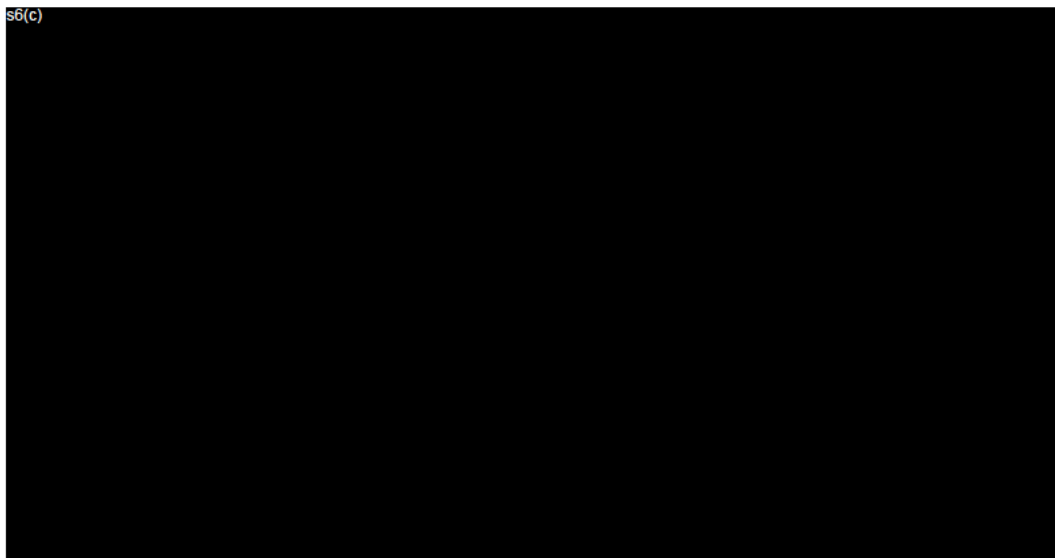
dining/communal room

24. s6(c) (see photograph below) and the Drug Treatment Unit (DTU) are of a different design to the other units and house low-medium prisoners. Again, both units were clean and tidy but the DTU was in need of refurbishment.





25. s6(c), the newest unit, houses remand prisoners (see photographs below). Cells have en-suite facilities, and considerably more space than the older cells.
26. The unit and cells were clean and tidy with very little graffiti.
27. There are some double cells in each unit which are not currently being used due to the insufficient privacy measures currently in place, and the low women's muster.
28. With the exception of s6(c), accommodation in the Prison is looking tired and dated and in need of refurbishment. However, all areas, both internally and externally, are clean, tidy and well organised. This was pleasing to see.



s6(c) dining/communal area



Single cell in s6(c) with en-suite shower and toilet

### Sanitary conditions

29. Although dated, there were sufficient shower facilities in each unit. All facilities were cleaned to a very high standard (see photograph below).



s6(c)

### Recommendations – Material conditions

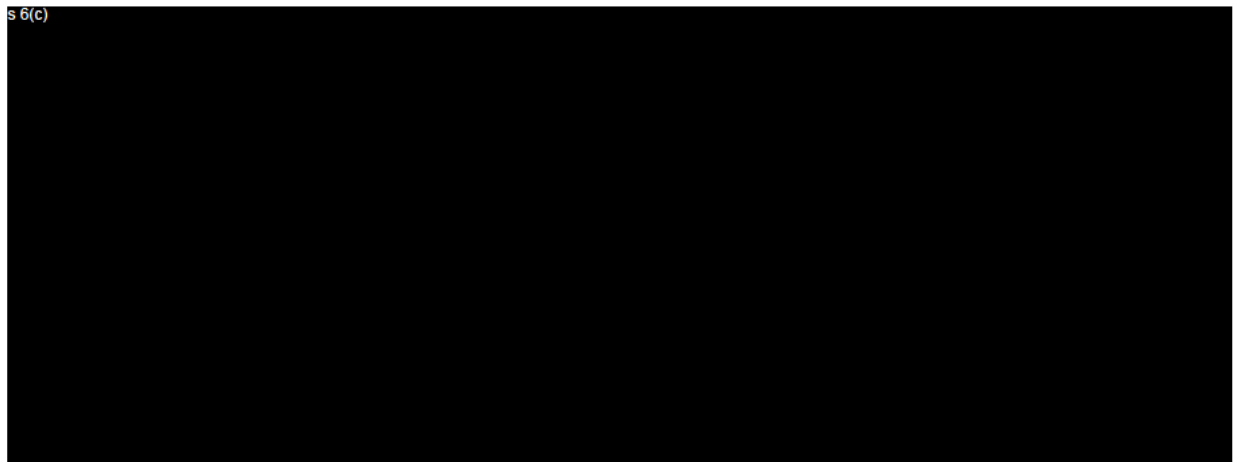
- The DTU, s6(c) need to be refurbished, including the shower facilities. Some extra or a bigger communal area(s) needs to be incorporated into the refurbishment.

### Regimes and activities

#### Outdoor exercise

30. Prisoners have access to unlimited daily exercise during the hours of unlock. There is undercover seating in all of the exercise areas.

s 6(c)



s 6(c)

At Risk Unit

31. The Inspectors had no issues with prisoners' access to outdoor exercise.

### *Leisure activities*

32. Prisoners have access to a large gymnasium, a small but well stocked library, church activities, toastmasters, quilting classes and educational programmes on a rotational basis. The Prison has an outdoor pool (not currently in use) but managers are hopeful of its re-opening in the near future.



Prison gymnasium

33. The Inspectors were pleased to see such a wide range of activities taking place in the Prison.

### *Recommendations – Regimes and activities*

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- I have no recommendations to make.

### **Health care**

#### *Primary health care services*

34. Prisoners receive a full health screening by a registered nurse on their admission to the Prison. Any referrals and follow-ups are carried out by a visiting G.P, which helps to ensure the prisoners' physical and mental health needs are being met. The G.P carries out two sessions a week at the prison and mental health services are provided by the local forensic team.
35. Breast and cervical screens are in place for prisoners, along with dental services.
36. There were no mothers with babies in the Prison on the day of the visit.

37. Prisoners are able to submit a health request form in their unit which is collected by nursing staff on a daily basis.
38. The Inspectors checked several forensic prisoners' medical files and were pleased to note the quality of the information contained in them.
39. The Inspectors had no concerns with prisoners' access to medical facilities within the Prison.

#### Recommendations – Health care

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- I have no recommendations to make.

#### Acknowledgements

40. 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.



Beverley A Wakem  
Chief Ombudsman  
National Preventive Mechanism





Visits area





Prisoners in the DTU are able to prepare and cook their own meals



DTU dining room





§ 6(c) exercise area



§ 6(c) exercise area

## Appendix 2: Overview of OPCAT – Prisons

1. In 2007 the New Zealand Government ratified a United Nations convention called the 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.
2. 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.*
3. 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.
4. Under section 27 of COTA, an NPM's functions, in respect of places of detention, include:
  - to examine the conditions of detention applying to detainees and the treatment of detainees; and
  - to make any recommendations it considers appropriate to the person in charge of a place of detention:
    - for improving the conditions of detention applying to detainees;
    - for improving the treatment of detainees;
    - for preventing torture and other cruel, inhuman or degrading treatment or punishment in places of detention.
5. 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 separation between the Ombudsmen's preventive monitoring function under OPCAT and the Ombudsmen's investigation function under the Ombudsmen Act by using separate visits and staff for each function.
6. Under COTA, NPMs are entitled to:
  - access all information regarding the number of detainees, the treatment of detainees and the conditions of detention;
  - unrestricted access to any place of detention for which they are designated, and unrestricted access to any person in that place;
  - interview any person, without witnesses, either personally or through an interpreter; and
  - choose the places they want to visit and the persons they want to interview.

### Appendix 3: Process of site visits

1. Under COTA, NPMs can visit, at regular intervals or at any other time the NPM may decide, any place of designation for which they are designated. Site visits can be unannounced.
2. As part of the visit preparation, the Inspectors may request some information beforehand and request that other information be provided at the time of the visit.
3. At the commencement of each site visit, there will normally be a meeting with the manager of the unit, or that person's delegate, during which the Inspectors will indicate how the visit should proceed.
4. During the visit, informal interviews and discussions will be undertaken with staff and one or more of the detainees, and a tour of the facility, preferably in its entirety, should take place.
5. Because of the wide scope of issues to be considered, it may not be possible to address them all during each visit. Accordingly, visits could focus on one or more of the following areas:
  - reception areas;
  - isolation facilities (such as management units, punishment areas, and segregation facilities);
  - sanitary facilities;
  - cells/accommodation;
  - medical facilities;
  - accuracy of relevant documentation; and
  - a review of any matters drawn to the attention of the Visiting Team prior to the visit or during the visit.
6. Visits will be followed by a report by the NPM which will include findings and recommendations (if any) aimed at improving the treatment and conditions of detention of persons deprived of their liberty. Implementation of any recommendations will be closely monitored.

#### Appendix 4: Standards relevant to a prison or court cell against which they will be measured

1. There are a number of Acts which can result in someone being held in detention or otherwise detained in a prison or a court cell, including:
  - Criminal Justice Act 1985
  - Corrections Act 2004
  - Immigration Act 1987
  - Sentencing Act 2002.
2. Some of the key issues to be examined during a visit could include treatment, protection measures, material conditions, regimes and activities, medical services and personnel.
3. Article 1 of OPCAT explains that the objective of OPCAT is to *“establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.”*

The purposes of the monitoring and reporting regime include:

1. *“...strengthening, if necessary, the protection of [detainees] against torture and other cruel, inhuman or degrading treatment or punishment”* (article 4.1 OPCAT refers); and
2. *“...improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations”* (article 19(b) OPCAT refers).

Part 2 of the Crimes of Torture Act, which relates to the Prevention of Crimes of Torture, makes it clear that one of the purposes of the Act is to enable New Zealand to meet its international obligations under OPCAT (section 15 Crimes of Torture Act refers).