

Special Monitor's Investigation: Allegations of prisoners being forced to take part in organised fighting at Mt Eden Correctional Facility

Operational Review Report

Date	09 July 2014.
Prepared By	Principal Custodial Advisers 9(2)(a) [REDACTED] and 9(2)(a) [REDACTED]
Subject	Special Monitor's Investigation into the allegations of prisoners being forced to take part in organised fighting at Mt Eden Correctional Facility (MECF).

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TABLE OF CONTENTS

	Pages	Paragraph
Purpose:	2	1
Executive Summary:	2	2 – 7
Recommendations Table:	3 – 5	
Background:	5	8 – 10
Scope of the Investigation:	6	11 – 12
Methodology/Review Process:	6	13
Findings:	6 – 14	14 – 63
Recommendations:	14	64
Recommendations Table:	15 – 16	

PURPOSE

1. The National Commissioner, Jeremy Lightfoot has directed that a Special Monitors Investigation be undertaken by National Office based Principal Custodial Adviser **9(2) 9(2)(a)** (the Special Monitor) into allegations of prisoners being forced to take part in organised fighting at Mt Eden Correctional Facility (MECF).

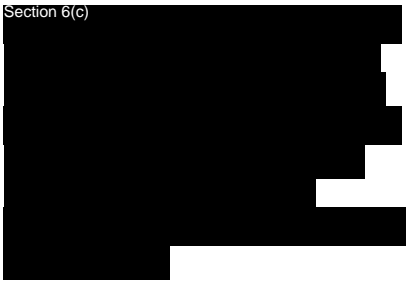
EXECUTIVE SUMMARY

2. The National Commissioner received reports from a **Section 9(2)(a)** Probation Officer that there was a Fight Club operating at MECF and asked that an investigation be undertaken to ascertain the truth of **Section 9(2)(a)** concerns.
3. The investigation has concluded that there is a Fight Club being operated at MECF by the criminal gangs and whilst there is no evidence to support the allegation of staff involvement, it is unlikely that staff would be completely unaware of its existence.
4. There is also evidence to support that Fight Clubs are being similarly operated at Northern Region Corrections Facility (NRCF) and Rimutaka Prison. This information has been gathered from interviews with prisoners.
5. Whilst undertaking this investigation information came to the attention of the Special Monitors. Whilst this investigation was unable to substantiate these claims, it is recommended that a further review take place in order to understand why these claims are being made. These are in relation to:
 - Allegations of staff assaults on prisoners;
 - Allegations of lack of prisoner access to health care following injuries;
 - Identified deficiencies in incident reporting;
 - Allegations of prisoners being unable to access to outside communication including Inspectors, the Office of Ombudsmen & Lawyers.
 - Allegations prisoners being denied access to the complaints process

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- Allegations surrounding the treatment of segregated prisoners, particularly child sex offenders
 - Allegations in regard to practices in the Receiving Office.
6. Staff at MECF, when interviewed agreed that planned fights had occurred but not for over 12 months, and this happened when staffing numbers in the units were reduced to three or less (one in the Control Room, two in the housing unit).
 7. Staff also stated that if the units were fully staffed with five staff, most assaults and fights could be prevented, regardless of whether a Fight Club existed. Staffing shortfalls are still a regular occurrence at MECF, therefore it cannot be discounted that similar instances are still occurring yet going unreported and/or unobserved.

	Recommendation	Accepted	Response	Current status
1	The Department should task the Intelligence Unit to assist Prison Managers/Directors to identify, confirm and effectively manage the Fight Club organisers.	YES/NO		
2	Section 6(c) 	YES/NO		
3	MECF should ensure that staffing on the units is of a sufficient number to provide continuous supervision and response capability.	YES/NO		
4	All sites must be advised to immediately report any allegation or concerns raised by prisoners transferring in from any other site, paying particular attention to unexplained injuries.	YES/NO		

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5	A review by the Health Department of prisoners who have been transferred from MECF over the past 12 months should be considered, paying particular attention to those arriving at other sites with unexplained injuries.	YES/NO		
6	A review of incident reports needs to be performed. This could be completed by a person deemed competent to ensure they are categorised correctly and that appropriate follow up action occurred.	YES/NO		
7	The Prison Monitor Team should complete a check of all prisoner pay phones on a random, weekly basis to check the 0800 number functionality.	YES/NO		
8	A review of the prisoner complaints generated through MECF should be undertaken by the Inspectorate.	YES/NO		
9	A review of the management of segregated prisoners at MECF should be considered to provide assurance that correct and appropriate procedures are adhered to and prisoners are afforded the required protection.	YES/NO		
10	A full review of the practices within the Receiving Office needs to be considered. This could be completed by the Monitors on Site at busy periods.	YES/NO		

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BACKGROUND

8. Information was received from Probation Officer, Section 9(2)(a), who works in the Section 9(2)(a) Region. This information related to prisoners allegedly being forced to take part in organised fights at MECF. Section 9(2) advised that Section 9(2) has received this information from prisoner interviews at Section 9(2)(a) when preparing pre-sentence reports. The allegations that she reported are that:
- fights are taking place in a number of units at MECF which are organised by Corrections Officers;
 - prisoners are forced to take part in these fights;
 - Corrections Officers put two offenders into a cell, left them to fight and then go to their station and watch the action;
 - Corrections Officers take and place bets on the outcome of the fights, gathering phone cards and rations from prisoners as revenue ;
 - Corrections Officers are taking part in the actual fights; and
 - two offenders alleged that they heard a manager remind staff that the fights Section 6(c).
9. On the basis of the information received from Section 9(2)(a), the Professional Standards Unit (PSU) made enquiries, which included interviewing prisoners who provided the following allegations:
- There is a lot of fighting at MECF, mainly in Section 6(c) ;
 - many prisoners at MECF (mainly Black Power) carry knives for personal protection;
 - prison staff turn a blind eye to fighting and are taking part;
 - if a member of staff loses a fight, other staff will assault the winning prisoner;
 - prison staff bet on the fights;
 - Pacific Island staff look after the Pacific Island prisoners; and
 - prison staff place prisoners in dangerous situations.
10. The PSU enquiry was unable to substantiate any of the allegations, and some prisoners refused to speak to them at all. Following this it was directed that an operational review be undertaken by the Special Monitor, Section 9(2)(a), with assistance from Principal Custodial Adviser Section 9(2)(a). This investigation was undertaken in June 2014.

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THE SCOPE of this INVESTIGATION:

11. This investigation was intended to be into the existence of Fight Club at MECF on the basis of the concerns reported by ^{Section 9(2)(a)} [REDACTED]. The terms of reference for this investigation were:

- investigate all allegations that relate to organised fights taking place at MECF, paying particular attention to the outcome of interviews carried out by Professional Standards Unit (PSU) with prisoners at ^{Section 9(2)(a)} [REDACTED];
- investigate and review all available CCTV footage of units and areas identified by prisoners or other persons in relation to the allegations;
- interview any prisoners who may assist the investigation;
- interview any staff who may assist the investigation; and
- examine and review all available incident notification reports that relate to fights and assaults at MECF over the last 12 months.

12. In addition, the Special Monitors have investigated and reported on any other issues that arose directly in connection with the allegations that pertain to the safe management of MECF, and the safety and well-being of prisoners and staff.

METHODOLOGY / REVIEW PROCESS:

13. The investigation followed the process described below:

- Nine staff from ^{Section 6(c)} [REDACTED] at MECF were interviewed;
- One ex-staff member from MECF who now works for the Department;
- 12 prisoners, housed at Auckland Prison, NRCF and Rimutaka Prison were interviewed;
- A scene examination at MECF was conducted;
- IOMS incident reports from MECF were reviewed; and
- CCTV footage from MECF was reviewed.

FINDINGS:

14. This investigation into the concerns expressed about the existence of a Fight Club at MECF in which prisoners were forced to fight has led to a number of other concerns about practice at MECF being highlighted. Therefore, the following findings are divided into two sections:

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- the findings about Fight Club at MECF and other sites; and
- other concerns that I recommend warrant further enquiry

The existence of Fight Club at MECF

15. As a result of the investigation into the existence of Fight Club at MECF, prisoner interviews indicate that such activity is occurring, and is likely to be occurring at other sites. However, the investigation has been unable to find evidence to support the original allegation that it is being organised by prison staff. All prisoners who confirmed the existence of Fight Club alleged that it was organised by the criminal gangs.
16. Despite there being no evidence that staff are organising Fight Club aside from Section 9(2)(a) report on Section 9(2)(a) conversations with prisoners; I have concluded from this investigation that staff at MECF must at the very least be aware of its existence. This is due to the fact that some staff interviewed at MECF confirmed that Fight Clubs had existed some 12 months ago but they had not witnessed such activity recently.
17. Of concern however is the same staff did state that these incidents occurred when staffing in the units had been reduced to three or less (against the required five). Staffing shortfalls are still a regular occurrence at MECF, therefore it cannot be discounted that similar instances are still occurring yet going unreported and/or unobserved.

Prisoner interviews

18. Twelve prisoners were interviewed as part of this investigation, all of whom had been identified as potential victims of Fight Club by Section 9(2)(a). Eleven prisoners verbally confirmed the existence of Fight Club at MECF while one refused to speak as soon as he was questioned about the subject.
19. Two prisoners stated that they would make formal written statements about the Fight Club at MECF. One has since refused to co-operate, the other has not refused but is yet to provide such a statement.
20. The majority of the twelve prisoners interviewed displayed real anxiety and fear when questioned about the existence of Fight Club. Some of them became tearful during the interview. Whilst talking about the Fight Club, the Special Monitors could see the fear build in them and they would get to a point where they refused to speak further. This reaction was consistent regardless of site or location.
21. The prisoners who confirmed the existence of Fight Club all indicated that it was organised by members of the criminal gangs and Section 6(c)

Name	PRN:	Gang	Location
Section 9(2)(a)	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

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Section 9(2)(a)	Section 9(2)(a)	Section 9(2)(a)	Section 9(2)(a)
Section 9(2)(a)	Section 9(2)(a)	Section 9(2)(a)	Section 9(2)(a)

- 22. The description of Fight Club was consistent across all prisoner interviews that confirmed its existence. They confirmed that there are two contests which take place called Fight Club and Contender Series. The Contender Series seems to be for prisoners who are happy to take part in fights and Fight Club is for those who are bullied or forced into taking part. The prisoners interviewed stated that both types are still occurring at MECF.
- 23. The prisoners described the fights as taking part over three rounds of one minute duration. Fighters are selected on size with ability having no bearing. The Special Monitors were told of instances of semi-professional fighters beating prisoners for the full three minutes. The fights were commonly described as mean, fierce, brutal and hard-out with no mercy for the contestants.

Staff interviews

- 24. Nine staff from MECF who are employed in Section 6(c), and one ex-MECF staff member, were interviewed regarding Fight Clubs that were or had been operating at the site.
- 25. The information from the staff was consistent, in that no Fight Club or Contender type activities were occurring currently. Three of the staff reported they were aware of Fight Clubs previously existing, but these had ceased over 12 months ago.
- 26. The staff stated that they had become more proactive in order to keep themselves and the prisoners safe by stopping all sparring and intervening quickly whenever an altercation started. During the investigation, the special monitors observed that Section 6(c) This reduces the ability for staff to maintain proper observations.
- 27. Despite MECF staff advising that they now intervene more proactively, all agreed that planned fights had occurred when staffing numbers in the units were reduced to three or less (one in the Control Room, two in the housing unit). They stated that the fights would occur when the staff Section 6(c)
- 28. A common theme in the staff feedback was that if the units were fully staffed with five staff, most assaults and fights could be prevented, regardless of whether a Fight Club existed.

Review of CCTV footage

- 29. The Special Monitors were unable to gather any evidence from CCTV.
- 30. CCTV footage is recorded digitally and the recordings are only stored for 14 days. None of the prisoners interviewed were able to confirm dates or times of fights that fell within the preceding 14 days. Additionally, none gave dates outside the 14 days. If prisoner had provided specific dates and times, the footage may have been recoverable through Section 9(2)(a).

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Recommendations in relation to the existence of Fight Club at MECF

- 31. The Special Monitors recommend that the following action be taken in relation to their finding that Fight Club, organised by criminal gangs, is taking place at MECF:

1	The Department should task the Intelligence Unit to assist Prison Managers/Directors to identify, confirm and effectively manage the Fight Club organisers.
2	Section 6(c) [REDACTED]
3	MECF should ensure that staffing on the units is of a sufficient number to provide continuous supervision and response capability

The existence of Fight Club at other prison sites

- 32. The prisoners interviewed confirmed verbally that Fight Clubs organised by the criminal gangs were operating, or had operated, at NRCF and Rimutaka.

Recommendations in relation to the existence of Fight Club at other prison sites

1	This is a repeat recommendation that the Department should task the Intelligence Unit to assist Prison Managers/Directors to identify, confirm and effectively manage the Fight Club organisers.
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Incidental findings of this investigation

- 33. Additional serious allegations were raised by prisoners during the course of this investigation which warrant further investigation. These allegations are detailed below. It must be stated again that these allegations have not been evidenced and remain unsubstantiated.

Alleged staff assaults on prisoners

- 34. During the course of this investigation prisoners alleged that assaults by staff on prisoners happen on a regular basis in MECF. Further, they alleged that staff are facilitating prisoner on prisoner assaults unrelated to Fight Club.

- 35. In relation to staff assaulting prisoners, the allegation was that assaults are committed [REDACTED]. These allegations were consistent across the interviews. A common comment was:

"If you upset the staff, you will get a bloody good hiding".

- 36. In addition to staff assaulting prisoners, it was also alleged that staff lead prisoners out of the unit for the purpose of an appointment or interview. However, the prisoner will then be

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left in a corridor or sally-port and then joined by other prisoners who will proceed to beat the prisoner up. The staff member will then return and escort the prisoner back to his cell.

- 37. A prisoner at NRCF recounted an incident at MECF ^{Section 6(c)} where four staff forced a prisoner into his cell and gave him a beating. He stated that the incident was witnessed by himself and at least one other prisoner. He was subsequently threatened with reprisals, along with the other prisoner, should they say anything. He has however refused to provide a statement to this effect or provide any specific details or dates of this alleged incident.
- 38. Another prisoner interviewed at NRCF alleged that he was assaulted in his cell at MECF by gang members. He recounted that he was asleep in his cell with the door locked. He heard the door unlock and the gang members entered and seriously assaulted him. It is his assertion that staff must have been involved to enable the cell door to have been unlocked. At the time of his interview, this prisoner had a substantial lump to the side of his head that he attributes to this event. This was being treated by medical staff at NRCF. He stated that it was not until his arrival at NRCF that he received any medical attention. He was unable to advise the investigation of the actual date or time of the incident.
- 39. At least four of the prisoners interviewed displayed injuries, including bruising and lumps and bumps, that they claimed come from their time at MECF. Some were alleged to be through assaults from other prisoners, although not necessarily through Fight Club.

Recommendations in relation to alleged staff assaults on prisoners

4	All sites must be advised to immediately report any allegation or concerns raised by prisoners transferring in from any other site, paying particular attention to unexplained injuries.
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Lack of access to health care following assaults/Fight Club at MECF

- 40. It was reported by prisoners and the ex-staff member interviewed that medical attention is often unavailable following injuries sustained as a result of Fight Club or other assaults.
- 41. The Special Monitors were informed that the injuries had to be serious before being seen by health staff. The ex staff member who was interviewed corroborated this when he claimed:

“health are aware of what’s going on, but they are assisting in covering it up...it has to be a Code Blue for health to get involved”.
- 42. The lack of access to medical attention following the sustaining of injuries was also asserted by prisoners, including the one referred to at paragraph 34 above.

Recommendations in relation to the lack of health care provided to prisoners at MECF

5	A review by the Health Department of prisoners who have been transferred from MECF over the past 12 months should be considered, paying particular attention to those arriving at other sites with unexplained injuries.
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Deficiencies in incident reporting

- 43. Approximately 50 incident reports were reviewed as part of this investigation. The standard observed indicated an unacceptable level of reporting by the operator. The quality of the reports that the staff are entering lacks relevant information and provides no indication that the reports were followed up on by more senior staff.
- 44. One report asserted that two MECF staff members witnessed “numerous prisoners” chasing and punching another prisoner, but they failed to identify any of the perpetrators for reporting or misconduct purposes. Aside from a lack of the detail which they should have included, the report also shows a lack of supervision by more senior staff. If the staff involved in the incident continued to assert that they could not identify the prisoners involved, the Supervisor or Manager should have insisted names be provided and then viewed CCTV footage to confirm.
- 45. Additional concerns with incident reports were also identified during the investigation. This was particularly in relation to correctly filling in the component parts of the incident reports on IOMS. The components include an incident title, description of where the incident took place and detailing all people (staff and prisoners) involved in the incident. These components are important as they categorise the incidents and allow for incident reports to be easily reviewed.
- 46. Some of the incident reports involving fights could have been more accurately reported as assaults.

Recommendations in relation to the deficiencies in incident reporting at MECF

6	A review of incident reports needs to be performed. This could be completed by a competent Senior Corrections Officer to ensure they are categorised correctly and that appropriate follow up action occurred.
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Lack of access to outside communication

- 47. The Special Monitors were interested to understand why the prisoners involved were not reporting any of the concerns discussed to the Prison Inspectors, the Ombudsman or the Human Rights Commission.
- 48. Three of the prisoners interviewed who were making specific allegations against staff were asked why they hadn’t reported their complaints using the 0800 numbers. All three alleged that “if” you can get to the phone, the 0800 numbers would not be working and they would get a message to try again later.
- 49. The Monitors were asked to go to Charlie and Delta Units and test the 0800 numbers to provide assurance that this was not the case. In the first instance the Monitors asked MECF Management to perform this check. They were advised that all phones were functioning. The following week the monitors visited the units unannounced and performed their own checks, again the phones were functioning properly.
- 50. Prisoners alleged that access to the phones is controlled by the Unit Representatives. These are trusted prisoners selected by the staff who work in each of the units. It was reported that there is invariably a fee to use the phone and the level of that fee is

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dependent on how urgent the call is. Phone cards, food and noodles are common currency for phone use. It was further alleged that if a prisoner tried to circumvent the system by bypassing the Unit Reps and going straight to a staff member, you would still not get access to the phone and would probably receive a beating as well.

- 51. As the majority of the prisoners within MECF are on remand, contact with their lawyers is vital. However, the prisoners interviewed reported that should you need to talk to your lawyer, you still had to go through a unit Rep to get access to the phone.

Recommendations in relation to lack of access to outside communications

7	The Prison Monitor Team should complete a check of all prisoner pay phones on a random, weekly basis.
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Deficiencies in the complaints process for prisoners

- 52. Prisoners consistently raised issues with their ability to make complaints at MECF. As with the Department’s prisons, complaints are made by filling in a complaint form which is entered onto IOMS by Corrections Officers.
- 53. At MECF complaint forms are accessed through the prisoner kiosks but prisoners alleged that to get to the kiosk you require “assistance” from a Unit Representatives (as described in reference to access to the telephone in paragraphs 45 to 46 above). The prisoners stated that if you were able to access a form and hand it to a Corrections Officer that did not mean that the complaint would be entered on the system. It was alleged that if the complaint involved a staff member, or staff simply couldn’t be bothered, they would knock on the Control Room window to ensure the prisoner was looking and then shred the complaint form. This is unsubstantiated and the special monitors did not witness any such activity.

Recommendations in relation to definitions in the complaints process for prisoners

8	A review of the prisoner complaints generated through MECF should be undertaken by the Inspectorate.
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Concerns about the treatment of segregated prisoners and failure to segregate prisoners

- 54. As a result of the prisoner interviews as part of this investigation, the Special Monitors are concerned about the treatment of segregated prisoners at MECF. Further, we are concerned that some prisoners are not being segregated for their own protection when they should be which results in assaults on prisoners.
- 55. Five of the prisoners interviewed during the course of this investigation alleged that it was common place for segregated prisoners to be housed in the same unit as mainstream prisoners at MECF. This is acceptable as long as the different groups remain separated. However, the accounts we were given by these prisoners, some of whom were mainstream prisoners, were that segregated prisoners were placed in mainstream units and not separated from mainstream prisoners.

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- 56. The same prisoners alleged that prisoners were expected to walk unaccompanied to their cells while the unit was unlocked and incidents occurred during this time. It was also alleged that prisoners on segregation in the Receiving Office holding cells had been assaulted by other prisoners when their cells were unlocked by staff. The allegation by prisoners was that staff would open the cell if told by non-segregated prisoners that the prisoner was a family member.
- 57. In addition to not being properly segregated, it was also alleged by a number of prisoners that that staff were identifying segregated prisoners as they entered the unit. This would be regarded as direct provocation to many of the mainstream population and the Special Monitors were informed of alleged incidents that involved a child sex offender (CSO) where the staff would walk behind a new prisoner and state "CSO" so the unit was aware of the type of the prisoner's offending.
- 58. One incident report dated ^{Section 9(2)(a)} [redacted] provides some substance to these allegations. A child sex offender was placed into a mainstream unit, ^{Section 6(c)} [redacted], on the afternoon of ^{Section 9(2)(a)} [redacted] and assaulted ^{Section 6(c)} [redacted] the following day; he was subsequently segregated. He did not identify his alleged attackers. During interview he stated to this investigation that if he spoke, his family would be at risk as he had received threats not to say anything.
- 59. The Special Monitors consider that this prisoner should have been segregated at the outset and this assault should never have been allowed to occur. Given the type of his offending and the fact that it was his first experience of the custodial environment, he should have been informed of the significant risks/dangers he would face should the general population discover what types of offences he has been charged with. If he then declined voluntary segregation he should have been placed on segregation for his own protection.

Recommendations in relation to the treatment of segregated prisoners

9	A review of the management of segregated prisoners at MECF should be considered to provide assurance that correct and appropriate procedures are adhered to and prisoners are afforded the required protection.
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The Receiving Office – treatment of segregated prisoners and access to the telephone

- 60. The Receiving Office was referred to by the prisoners interviewed as one of the most dangerous parts of the institution.
- 61. Prisoners talked about there being no separation between segregated prisoners and mainstream prisoners resulting in physical and verbal abuse of segregated prisoners. It was reported that when it is time for the segregated prisoner to be processed, the door is opened and they are required to walk through the mainstream prisoners unescorted.
- 62. Further, it was reported that prisoners were commonly assaulted while making their initial phone call in the Receiving Office. The telephone is located in an alcove and at least three of the prisoners interviewed recounted being assaulted or "king hit" whilst about to use this phone. They reported that the staff reaction was to turn a blind eye or to simply say "welcome to MECF".

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63. Section 6(c) [Redacted]

Recommendation in relation to the practices of the Receiving Office

10	A full review of the practices within the Receiving Office needs to be considered. This could be done remotely via CCTV by the Prison Monitors, at busy periods.
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RECOMMENDATIONS:

64. I recommend that you:

- Note the contents of this report **YES/NO**
- Accept the findings of this report **YES/NO**

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	Recommendations	Accepted	Response	Current status
1	The Department should task the Intelligence Unit to assist Prison Managers/Directors to identify, confirm and effectively manage the Fight Club organisers.	YES/NO		
2	Section 6(c) 	YES/NO		
3	MECF should ensure that staffing on the units is of a sufficient number to provide continuous supervision and response capability.	YES/NO		
4	All sites must be advised to immediately report any allegation or concerns raised by prisoners transferring in from any other site, paying particular attention to unexplained injuries.	YES/NO		
5	A review by the Health Department of prisoners who have been transferred from MECF over the past 12 months should be considered, paying particular attention to those arriving at other sites with unexplained injuries.	YES/NO		
6	A review of incident reports needs to be performed. This could be completed by a competent Senior Corrections Officer to ensure they are	YES/NO		

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	categorised correctly and that appropriate follow up action occurred.			
7	The Prison Monitor Team should complete a check of all prisoner pay phones on a random, weekly basis.	YES/NO		
8	A review of the prisoner complaints generated through MECF should be undertaken by the Inspectorate.	YES/NO		
9	A review of the management of segregated prisoners at MECF should be considered to provide assurance that correct and appropriate procedures are adhered to and prisoners are afforded the required protection.	YES/NO		
10	A full review of the practices within the Receiving Office needs to be considered. This could be done remotely via CCTV by the Prison Monitors, at busy periods.	YES/NO		

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