

**CONFIDENTIAL**

**Report on an unannounced follow-up visit to  
Department of Corrections'  
Auckland Men's Prison  
10 August 2011  
under the Crimes of Torture Act 1989**



**Beverley A Wakem  
Chief Ombudsman  
National Preventive Mechanism**

## 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 prisoners in New Zealand prisons.
2. On 10 August 2011, Chief Inspector Greg Price (to whom I have delegated authority to carry out visits of places of detention under COTA) made an unannounced visit to Auckland Prison to follow up on some of the recommendations made in a previous inspection report dated 2-4 August 2010.
3. This report addresses a number of the recommendations from the August 2010 visit, as well as some findings and recommendations from the follow up visit.

## Progress since the last report (August 2010)

### Material conditions

§ 6(c) shower facilities need to be revamped with improved ventilation and disability adaptations fitted.

4. **Partially achieved.** § 6(c) shower facilities have been re-furbished and the floors re-covered. However, the flooring material has not adhered properly in some instances. There would seem to be a problem with the type or quality of paint used, and/or the surface preparation.



Lower East landing showers



Top West showers

5. Disability adaptations have still not been fitted in the showers.  
**We repeat the recommendation.**

**Response to recommendation**

**Accepted.** *The Department is currently clarifying the actual modifications required to ensure any adaptations are appropriate for prisoners with physical disability. Once this advice has been received and finance is approved, the planning for the installation of the disability adaptations will commence and the work is expected to be completed in the next four months.*

The issue of <sup>s 6(c)</sup> shower flooring had been resolved.

A cleaning schedule needs to be enforced on the units. This should include a daily collection of rubbish from outside the house blocks.

6. **Partially achieved.** While there was some evidence that rubbish has been collected from areas outside the cell blocks, including the light wells, the area between <sup>s 6(c)</sup> yards and <sup>s 6(c)</sup> was littered with rubbish as the photos clearly indicate.



7. There also seemed to have been some recent protest by one or more prisoners on the top West landing of <sup>s 6(c)</sup> [REDACTED], which involved flooding the landing with what looked like sewage. Staff were not entirely sure whether the protest related to the recent smoking ban or a particular prisoner's grievance. Whatever the reason, the failure to have the mess cleaned up creates an on-going health and safety risk to both staff and prisoners.

**We repeat the recommendation.**

s 6(c)



#### **Response to recommendation**

**Accepted.** *A cleaning regime has been established in each unit and cleaning of outside areas is done daily. The Principal Corrections Officers of all units have been given the responsibility for checking that the cleaning schedule is being adhered to.*

*The Acting Prison Manager will use the Prison Managers Assurance Tool on a random basis to ensure adherence to the cleaning schedule.*

#### **Protective measures**

The separates area should be refurbished and reopened and serious consideration should be given to the introduction of a purpose built management unit at the Prison.

8. **Partially achieved.** The separates area was in use at the time of the visit (although not refurbished). An examination of the log book indicated it has been in regular use since the beginning of January 2011.
9. However, a purpose-built management unit would be able to accommodate those prisoners, who by virtue of their individual

circumstances, are not suitably placed in the separates unit - which is essentially a punishment unit.

**We repeat the recommendation.**

**Accepted.** *A needs analysis and feasibility study is currently being conducted by the Department. These, together with the approval of funding, are expected to take four months to complete. It is expected that the Management Unit will be completed as part of work by June 2014.*

Prison management should reinforce the B.10 complaint process with staff to ensure prisoners have the opportunity to make a complaint, without censorship as to substance. Every complaint should be promptly dealt with and replied to without delay.

10. **Achieved.** The Chief Inspector asked the staff in <sup>s 6(c)</sup> to check IOMS for him to ensure that complaints were being entered as required. Upon examination of the two-month period immediately preceding the visit, the Chief Inspector was satisfied that the requirements of the Department's complaints process were being complied with.

### Treatment

The Prison Manager should take the necessary steps to ensure that all prisoners are offered the daily opportunity to take at least one hour's exercise in the open air.

11. **Achieved.** While there is evidence that <sup>s 6(c)</sup> prisoners are now offered the daily opportunity to exercise in the adjacent yards the prisoners generally decline that opportunity due to the lack of shelter in any of the four yards. The Inspector was advised that work is presently underway to de-commission the sentry towers and substitute camera surveillance. A priority should be that some sort of shelters be fitted, as have recently been completed in the standard cell block yards.



Two of the four D block yards

## Further recommendation - Treatment

*Priority should be given to the fitting of shelter areas and modesty screens to the <sup>s 6(c)</sup> yards.*

### Response to recommendation

*The fitting of shelter areas and modesty screens to <sup>s 6(c)</sup> yards is included in the planned facility work for Auckland Prison. The Department is currently at the planning stage for this work, but completion is anticipated in the next 6-12 months.*

## Medical services

Prisoners should have the opportunity to make a written application to see a nurse or doctor and the application should be retained on the prisoner's medical file.

12. **Achieved.** The Chief Inspector was able to view a number of completed 'request for medical health appointment' forms in the Prison's health unit. Health staff reported that aside from some initial teething problems, the process was working very well.

A prisoner telephone needs to be located in the ARU day room along with some suitable furniture.

13. **Partially achieved.** A prisoner payphone has now been installed in the ARU. Staff reported some problems upon the installation of the payphone including a prisoner trying to self-harm with his phone card, and another prisoner attempting to dismantle the phone. I believe that these types of issues are easily resolved with adequate staff supervision, as the day room and phone are adjacent to the staff workstation.

14. There is still no furniture provided in the day room (see photograph below).

**We repeat our recommendation.**

<sup>s 6(c)</sup>



## Response to recommendation

**Accepted.** *The Principal Corrections Officer and the Residential Manager of the ARU have considered the different options for the most appropriate furniture for the ARU day room. This included an assessment of the risks associated with the different options and the development of mitigation strategies.*

*The most tenable option would be a solid steel two seater bench bolted to the floor, strategically placed away from the camera and the sprinkler. The option will be implemented in the next three months for trial.*

At risk file note entries should state what minimum entitlements a prisoner has had access to each day such as: exercise, shower, meals, telephone, day room and visits. File notes should be appropriately worded.

15. **Achieved.** The at risk file notes now record what minimum entitlements a prisoner has had access to, and also note any facilities or opportunities that have been declined.

A log book should be held in the ARU which records when prisoners are placed in the round room and when they are removed. Reasons for their placement should be documented by the appropriate manager.

16. **Achieved.** The ARU log book now shows when a prisoner enters the round room, when they are removed and the reasons why they have been placed in there.

The SNU needs to provide a therapeutic regime modelled on the local mental health facility. The regime needs to be staffed with appropriately qualified occupational therapists or instructors and supported by custodial staff. This regime should be based on assessed needs.

17. **Not achieved.** Staff working within the Special Needs Unit (SNU) on the day of the visit were in agreement that those prisoners who had a mental health issue, and in particular those who were wait-listed for a place at the Mason Clinic, would be better managed on a treatment regime as opposed to a custodial-focused regime. However, staff were quick to point out that the placement of prisoners with a behavioral issue within the SNU prevented a more therapeutic regime from being introduced as prisoners with mental health issues would be at risk from the prisoners with behavioral issues.

18. A properly designed management unit at this prison would allow prisoners with behavioral problems to be managed appropriately and separately. This would then allow the SNU to operate solely as a treatment-focused unit which would be more compatible with improving a prisoner's mental health.

**We repeat our recommendation.**

## Response to recommendation.

**Not accepted.** *Currently the SNU operates with a multi disciplinary team who conduct case reviews at regular meetings. This team consists of Doctors and Nurses from the Mason Clinic, a Psychologist from Corrections, a Nurse from Auckland Prison, the Residential Manager, the Principal Corrections Officer and two Senior Corrections Officers. The Department is responsible for the prisoners custodial supervision and management, and their primary health care needs. All other health needs are provided via the District Health Board. Prisoners under the treatment of the Mason Clinic in prison also have access to the range of services the Mason Clinic provides if recommended by the psychiatrists.*

*Custodial staff in the SNU provide a weekly report to the multi-disciplinary team about the positive and negative behavior the prisoners are demonstrating, and how they are relating to the other prisoners. Custodial staff are highly aware of the needs of the prisoners and they work closely with Prison Health staff and Mason Clinic staff to best manage these prisoners.*

*The doctor from the Mason Clinic has acknowledged that custodial staff are excellent at actively managing the prisoners undergoing forensic treatment and that the weekly reports are valuable and assist the doctors in their ongoing treatment of the prisoners on their case load.*

## Prison staff

Unless staff training or unit meetings are taking place, prisoners should be unlocked on a Friday afternoon. This needs to be closely monitored by the Prison Manager.

19. **Partially achieved.** The Chief Inspector reviewed the previous 12-week period's log book entries for <sup>s 6(c)</sup> ██████████ to establish if prisoners were being offered unlock time when there was no staff training or staff meetings. <sup>s 6(c)</sup> ██████████ was the only unit that unlocked its prisoners on three of the Fridays when there were no meetings or training. Of the 12-week period <sup>s 6(c)</sup> ██████████ recorded only one Friday on which a staff meeting took place. For the remaining eight Fridays the prisoners were left locked for no identifiable reason.
20. <sup>s 6(c)</sup> ██████████ recorded only one staff meeting in the 12-week period. On the remaining 11 weeks it would seem that the prisoners were left locked for no identifiable reason other than that it was a Friday afternoon.
21. <sup>s 6(c)</sup> ██████████ did not record any staff meetings or staff training on any of the 12 Fridays. However, on one of the Fridays the prisoners were able to access the prison's main gymnasium.

**We repeat the recommendation.**

## Response to recommendation

**Accepted.** *Prisoners will be unlocked on Friday afternoons unless staff training or unit meetings will be taking place.*



## Findings from the follow-up visit (August 2011)

### Material conditions

#### Food

22. During the previous visit the Inspectors did not assess the prison food. Despite the Inspectors' questionnaire indicating at that time that the prisoners were ambivalent about the quality of the food, the Visiting Team found that there were no substantive concerns with the delivery of food services at Auckland East Prison.
23. During this visit the Chief Inspector examined some sandwiches issued to a prisoner in the ARU, and the evening meals being served to one of the standard cell blocks. The sandwiches had not been prepared to a satisfactory standard, and there was no spread on one slice of bread of each of the three sandwiches examined.



24. The evening meal however was well presented and hot. It also included the recently introduced hot apple pie (on alternate days).



### Further recommendation – Material conditions

*The quality of the sandwich preparation needs to be improved.*

## Response to recommendation

**Accepted.** *Additional training has been provided to the prisoners employed in the sandwich preparation area and regular random checks will be undertaken to ensure compliance with the expected standard of sandwiches.*

## Summary of recommendations

25. The following is a list of repeated and further recommendations included in this report.

- a) Disability adaptations need to be fitted in the showers.
- b) A cleaning schedule needs to be enforced on the units. This should include a daily collection of rubbish from outside the house blocks.
- c) Serious consideration should be given to the introduction of a purpose built management unit at the Prison.
- d) Priority should be given to the fitting of shelter areas and modesty screens to the <sup>s5(c)</sup> yards.
- e) Some suitable furniture needs to be located in the ARU day room.
- f) The SNU needs to provide a therapeutic regime modelled on the local mental health facility. The regime needs to be staffed with appropriately qualified occupational therapists or instructors and supported by custodial staff. This regime should be based on assessed needs.
- g) Unless staff training or unit meetings are taking place, prisoners should be unlocked on a Friday afternoon. This needs to be closely monitored by the Prison Manager.
- h) The quality of the sandwich preparation needs to be improved.

## Consultation

26. A draft copy of this report was provided to the Prison Services National Office for comment as to fact, finding or omission prior to finalisation and distribution. Acting General Manager Prison Services' comments have been included in the body of the report.

## Acknowledgements

27. I appreciate the full co-operation extended by the Prison Manager and his staff to my Inspectors during their unannounced follow-up visit to the Prison.

A handwritten signature in black ink that reads "Beverley A. Wakem". The signature is written in a cursive style with a large, looping initial 'B'.

Beverley A Wakem  
Chief Ombudsman  
National Preventive Mechanism

**Appendix 1: Additional Auckland East photographs**

s 6(c)



## 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).