



APPENDICES

APPENDIX 1

Report under section 190 of the Corrections Act 2004

Section 190 of the Corrections Act 2004 prescribes particular issues that must be reported on in the Department's Annual Report. These issues and the Department's achievements in the period from 1 July 2006 to 30 June 2007 are detailed below.

S190(1)(a)

This aspect reports on how the Chief Executive has carried out his functions under section 8(1)(k), of ensuring that processes are established and maintained to identify communities significantly affected by policies and practices in the corrections system, and giving opportunities for those communities to give their views on those policies and practices, and ensured those views were taken into account, together with information on how prison managers have carried out this responsibility.

Regional Managers are required by the General Manager of the Public Prisons Service to engage with local communities on a regular basis. The processes established to assist engagement are described in the following publications:

- Public Prisons Service manuals and guidelines
- Release of Official Information: Guideline for Coordination
- Consultation requirements as set by local authorities
- Performance management system.

The major issues for the Public Prisons Service requiring consultation with community organisations during 2006/07 included:

- the construction and opening of new corrections facilities
- the transfer of existing facilities out of a community
- changes to existing operations and facilities.

Opportunities were made available for community involvement through staff and community networks, public meetings, hui, and the media. This involvement included identifying issues that could both positively and

negatively impact on a community, providing opportunities for positive community contributions, and providing information on departmental and prison activities.

S190(1)(b)

This aspect reports on the work undertaken by inspectors of prisons, including statistical information about the disposition of complaints and comment on issues arising from complaints or visits.

Introduction

The Corrections Inspectorate is established under the provisions of section 28 of the Corrections Act 2004 as a dedicated complaints resolution, investigation and assurance function, reporting directly to the Chief Executive independently of operational line management. The legislation acknowledges the high level of risk attached to prison management and the need to provide a level of legislative prescription, protection and access for the Chief Executive's assurance agents in matters related to sentence management, and imprisonment in particular.

Community-based sentences continue to generate a very low volume of complaints to the Inspectors, with only seven being received during the 2006/07 year. None of these complaints were upheld. The reasons for the low volume are twofold. Firstly, the Community Probation Service has traditionally had a robust internal complaints process in place for offenders. As a result, offender issues are effectively resolved at operational level. Secondly, community-based offenders are largely able to carry on with their normal lives while serving their sentences. They therefore have ready access to their normal support networks, and the coercive power of the State is significantly less immediate than is the case for someone serving a sentence of imprisonment. This report therefore deals primarily with prison-related matters.

Complaints to the Inspectors of Corrections

The effective and timely resolution of prisoner complaints is a key area of the Inspectors' work. For reasons of safety, security, fairness and the mitigation of risk, the Department expects prisoners' issues and concerns to be resolved as soon as practicable and at the lowest possible organisational level. In the normal course of events that is within the prison, at unit floor level. It is the responsibility of unit staff to resolve prisoner concerns by taking the appropriate action before they escalate into complaints or incidents. For those occasions where lower level resolution does not occur, or is not possible, the legislation provides the Department with a two tiered system of internal complaints resolution. At prison site level, a robust, auditable complaints system is required so that prisoners can formally take matters for resolution to their unit manager or prison manager. This constitutes the first tier.

The Inspectorate constitutes the second tier of internal complaints resolution and as such is effectively the Department's last opportunity to resolve a complaint before external agencies or Court action become involved. The year under review has seen for the first time since comparable figures have been available, a reduction in the number of prisoner complaints to the Inspectorate compared with the previous year. This is despite a significant increase in total prisoner numbers and indicates that the prisons are beginning to deal more effectively with prisoner concerns through their own internal complaints systems. This indication is reinforced by the continued low incidence of justified complaints to the Inspectors. A justified complaint is where the prison could have and should have acted differently, and the matter has required the intervention of an Inspector in order to achieve the appropriate outcome for the prisoner. Only 121 out of a total of 3,094 complaints to an Inspector, or 3.9 per cent, were deemed to be justified during 2006/07. (This compares with 114 justified complaints out of a total of 3,589 last year, or 3.2 per cent).

There are two matters of concern arising from the Inspector's complaints-related activity during the year. The first is in relation to the internal prison complaints system itself. It became apparent during the latter half of the year that, with the best of intentions, the efforts of some unit staff to ensure that issues were resolved at the lowest level were in fact creating a barrier between the prisoners and the internal complaints system. While unit staff can, and indeed must, offer to resolve an issue for a prisoner, they cannot insist that the prisoner disclose his or her concerns at that level. Access to the formal complaints system must be provided if that is what the prisoner seeks, and the necessary forms should be readily available in all units for the prisoners to use. Prison managers in turn need to ensure that statistics related to complaint volumes are not used in ways that encourage staff to respond negatively to prisoner complaints. Complaints are a normal part of prison life and are to be encouraged if a healthy prison environment is to be maintained.

The second issue relates to the sheer volume and content of contact with the Inspectorate that is generated by prisoners. While there has been some reduction in total contacts, as noted above, it is still apparent that at least half the matters brought to the Inspectorate could have been resolved at floor level. This is due to a combination of factors of which one, as noted above, is clearly the level of difficulty that prisoners have in accessing the internal prison complaints system. Equally critical, however, is the level of knowledge and experience of unit staff. The Department is still undergoing a period of rapid expansion and it is inevitable that there is an increased proportion of inexperienced staff in some units. Experience and ongoing training will improve that over time. In the meantime it is essential that prisoner access to the prisons' internal complaints systems is facilitated and encouraged. Prisoners need to know that their first recourse is to their unit or prison manager. They also need to gain confidence that their approaches to those people will result in a fair and reasonable outcome.

A number of specific areas of activity have been drawn to management's attention during the year, arising out of the Inspectors' complaints activity. As noted in my last report, the most significant of these remain prisoner property and staff conduct and attitude.

There is a continuing high incidence of complaints related to prisoners' property. 488 such complaints were received of which 27 (5.5 per cent) were found to be justified. This is comparable to last year's figures. It is encouraging to note, however, that there is a major review of the prisoner property entitlements and the property management system currently being undertaken. It is hoped that this will reduce both the amount of property retained in prison and the overall property management error rate.

There has been a rise in the number of complaints related to staff conduct and attitude. The Inspectors received 302 such complaints during the year compared with 214 last year. Of perhaps greater concern than the actual number of such complaints is the significant increase in the rate of justified complaints in this category. During 2006/07, 13.9 per cent of the total complaints received about staff conduct and attitude were found to be justified compared with the 4.2 per cent I noted in last year's report. While many of these related to the way in which staff were managing the prisoner complaints process, it needs to be repeated that the nature and dynamics of prisons require a constant, consistent and ongoing management presence right down at unit floor level in order to monitor and reinforce the desired behaviours. As I have previously reported, the time demands placed on today's prison managers, particularly in investigating incidents, complaints and allegations, and in dealing with the effects of constant change rarely allow this ideal to be achieved. It is hoped that the current review of the prison management structure will provide some much needed relief and resource in this area.

Prison Visit Focus Reviews

The Inspectorate's prison visiting programme includes a number of system reviews which focus on those areas of prison activity that generate the greatest level of risk to safe, fair and humane treatment. The same four focus review areas undertaken last year were continued

in 2006/07 because of their critical nature in terms of ensuring the safe, fair and humane treatment of prisoners. They were:

- the use of force system
- the system for identifying and managing prisoners at risk to themselves
- the prisons' internal complaints system
- the arrangements prisons have in place to ensure that regular sanitation and hygiene inspections by an independent specialist are carried out and any issues arising are addressed.

The results of these reviews were as follows:

The Use of Force System

A reasonable to high level of assurance can be given that the required system for managing the use of force is in place and being operated in practice. Some minor recording matters were drawn to management's attention at some sites but in general use of force incidents were well documented. As noted in my last report there is ongoing evidence that prisoners were given every reasonable opportunity to comply with a lawful order before force was used.

The System for Identifying and Managing Prisoners At Risk to Themselves

A reasonable level of assurance can be given that the system for identifying and managing prisoners at risk to themselves is in place and being operated in practice.

The Prisons' Internal Complaints System

As was the case in 2005/06, a reasonable level of assurance can be given that the required system for managing prisoner complaints at prison site level is in place at most locations. However, some ongoing but isolated shortcomings were noted in the practical application of the system. These included:

- Interview/Complaint forms were not sufficiently accessible to prisoners in some units.

- Some units were using unofficial 'forms' instead of the required Interview/Complaint form, or as a lower level unofficial system. This practice carries the risk of a return to the various undocumented local regimes that was replaced by the national system.
- The tear-off receipt was not always given to prisoners immediately an Interview/Complaint form was submitted.
- The timeframes for logging Interview/Complaint forms into the IOMS system were not always met.
- The timeframes for dealing with complaints once they were logged into the system were not always met.
- A number of complaints, while properly resolved, were incorrectly classified as 'interviews'.
- the need for assessing staff to carry out an adequate level of cross matching of information when completing prisoner self-harm risk assessments
- the need for staff to report all incidents in a timely fashion, and for reports to be submitted by all staff who are involved in an incident.

As with the matters arising out of the Inspectors' complaints activities and routine visits, these areas of concern are the subject of adequate and well-proven systems, instructions and procedural requirements. The issues identified are more about the compliance in practice with those systems.

The year 2006/07 was an extremely demanding year for the Department, principally as a result of the adverse publicity surrounding two major incidents. These included the death of a young prisoner while under escort from Court to Auckland Central Remand Prison, and the killing by a life parolee of an innocent member of the public. The investigation of the activities of a small number of staff has also generated a degree of public comment. Such events will inevitably occur from time to time. It is right that they should be scrupulously and publicly examined in order to ascertain their causes and to ensure that the chances of their being repeated are minimised. The inspection activities carried out during the year have confirmed that the Department has in place a number of strongly risk-based governance, internal assurance and line management processes. These processes are supported by formal monitoring activities such as internal audit, peer review, inspection and internal control. The results of these activities continually show that effective systems are in place and that the vast majority of staff and managers are conscientious in their application. Unfortunately there can be no guarantee that people will always act predictably, or that the required systems and processes will be observed to the letter on every occasion.

The Department of Corrections has come through a long period of change and development at the strategic level. That is ongoing. It is encouraging to note that management accepts the need for some additional focus

The System for Managing Independent Sanitation and Hygiene Inspections

A reasonable level of assurance can be given that there is a system in place at all prison sites to ensure that regular independent expert health and sanitation checks of the prison are carried out. A reasonable level of assurance can also be given that any shortcomings noted by the health and sanitation inspectors are recorded and addressed.

Investigations

In addition to their prison visiting and complaints resolution activities, the Inspectors completed 12 full investigations of significant prison incidents during 2006/07, all of which related to deaths in custody. In the interests of transparency, the Inspectors have also continued to monitor the conduct and outcome of a number of internal prison investigations into other prisoner related incidents and allegations.

The most consistent areas of concern arising out of the investigations and monitoring assignments carried out by the Inspectors during 2006/07 were:

- the need for staff to carry out an adequate level of supervision, observation and routine security checking of prisoners

to be directed to the basics of day to day operations. This is evidenced in enhanced training initiatives to ensure that staff are equipped to meet the demands of the job. There is also in train an ongoing review of operational management structures. It is hoped that this will ensure that line managers are properly supported and have sufficient time and resource to effectively monitor and mentor their areas of responsibility.

Conclusion

The Inspectorate has reported progressively throughout the year on the matters arising out of their various activities to operational management, the Chief Executive and the Assurance Board. It is encouraging to note the ongoing positive response at all levels to the Inspectorate's findings, recommendations and observations, and the genuine desire for ongoing improvement.

The events of the past year have only served to reinforce the fact that prisons are, and will remain difficult and dangerous places to manage and to work in. They have, as predicted, provided an easy target for criticism, generalisation and sensationalism. I nonetheless remain of the view that by and large the Department can be proud of the quality of its services and of the ongoing dedication of its staff and managers. This view is based on the largely positive findings from the Inspectors' visiting, investigation and review activities, and the ongoing low incidence of justified complaints to the Inspectorate throughout the year.

Section 190(1)(c)(d)(e)

This aspect describes the processes and systems in place to supervise and control the monitoring of prisoner calls, including statistics on the proportion of prisoner calls monitored and the number and percentage of calls disclosed under section 117(1) and (2):

- **to any person other than an employee of the Chief Executive**
- **to an employee of the Chief Executive**
- **number of proceedings against a person for a disciplinary in which a recording of any of those calls was used in evidence.**

Legislative authority for the Department to monitor prisoners' telephone calls is provided under sections 111 to 122 of the Corrections Act 2004. As a result of serious breaches in prison security, the Government approved additional funding in 2004 to enhance prison security by introducing a system and staff to monitor prisoners' telephone calls, and collect and analyse data that contributes to increase crime prevention in prisons.

Implementation of the overall Crime Prevention Information Capability (CPIC) model commenced in 2006/07. The supporting organisational structure, policies and procedures were put in place and staff recruited and trained. A new secure database was introduced and a pilot of the CPIC model completed in May 2007. A wide range of possible computerised systems to monitor telephone calls was investigated. The tender process for supply of functional systems was completed in August 2007. Implementation of these systems in prisons will commence in October 2007 and be completed in February 2008.

Section 190(1)(f)

This aspect provides a report on measures to reduce drug and alcohol use by prisoners and the effectiveness of those measures, random-testing programmes and the results of those programmes.

The Department's progress in reducing drug and alcohol use by prisoners is reported on pages 11 and 12 of this Annual Report.

Section 190(1)(g)

This aspect provides a report on the operation of every security contract in force for the whole, or any part, of the year to which the annual report relates, including:

- a summary of reports forwarded to the Chief Executive under S171(2) and (3)
- a summary of reports made to the Chief Executive under S172 (2) (b)
- a summary of actions taken in relation to the operation of security contracts as a result of matters raised in any report forwarded.

The Department's contract with Chubb New Zealand Limited is for the escort and court room supervision of prisoners in Auckland and Northland. Notwithstanding the number of difficult issues, the Chubb New Zealand Limited performance over the 2006/07 financial year was in line with contract expectations. The Department is currently working with Chubb New Zealand Limited to implement the recommendations from the Ombudsmen's investigation into prisoner transportation. The General Manager of Chubb New Zealand provided the Department with monthly reporting outlining performance for measures such as escapes, releases in error, prisoner deaths, prisoner injuries, complaints, staff personal grievances and disciplinary actions.

Section 190(1)(h)

This aspect provides a report on the operation of any contract prison, including a summary of reports by the manager of the contract prison, including:

- a summary of reports forwarded to the Chief Executive under S214(2) and (3)
- a summary of reports made to the Chief Executive under S215(2)(b)
- a summary of actions taken in relation to the management of contract prisons as a result of matters raised in any report forwarded.

No prisons were operated under contract during 2006/07.

APPENDIX 2

Report under section 15A of the Parole Act 2002

Section 15A(4) of the Parole Act 2002 requires the Department of Corrections to include in its Annual Report information about the use of electronic monitoring. The following information relates to the 2006/07 financial year.

Introduction

The information required covers:

- the number of offenders who were at any time subject to electronic monitoring
- the average number of offenders who were subject to electronic monitoring and the average duration of the monitoring
- the percentage of offenders who, while subject to electronic monitoring (other than as a standard detention condition while on home detention), were convicted for a breach of the condition, or convicted of any other offence, or recalled to prison under an interim recall order or a final recall order
- a description of processes and systems relating to electronic monitoring that were in place during the year reported on.

The number of offenders who were at any time during the 2006/07 financial year, subject to electronic monitoring:

Seven offenders were subject to an electronic monitoring condition.

Two offenders were electronically monitored as a special condition of parole, and five offenders were electronically monitored as a condition of extended supervision.

The average number of offenders subject to electronic monitoring and the average duration of the monitoring:

The average number of offenders subject to an electronic monitoring condition during 2006/07 was six offenders. The average duration of an electronic monitoring condition was 11 months.

The percentage of offenders who, while subject to electronic monitoring were convicted for a breach of the condition, or convicted of any other offence, or recalled to prison under an interim recall or final recall order:

Three of the seven offenders subject to electronic monitoring during 2006/07 were convicted for a breach of the condition, or convicted of another offence, or recalled to prison under an interim recall or final recall order

A description of the processes and systems relating to electronic monitoring that were in place during the year:

Electronic monitoring can only be used as a special condition to monitor an offender's compliance with other special conditions. These include compliance with participation in a programme or conditions prohibiting an offender from entering or remaining in specified places or areas, either at specified times, or at all times.

The New Zealand Parole Board may impose a special condition for an offender to submit to electronic monitoring following an assessment by the Department on the suitability and availability of electronic monitoring.

The Department canvases the suitability of a premises for electronic monitoring and assesses the safety and welfare of any occupants proposing to reside with the offender. In all cases the other occupants of the premises must consent to having the offender, who is subject to electronic monitoring, residing with them.

The Department has a contract with Chubb New Zealand Limited for the provision of electronic surveillance, equipment and security guards to facilitate the use of electronic monitoring in the Department's management of offenders.

Electronic surveillance equipment provides specialised monitoring through an electronic unit based at the offender's places of residence. The offender wears an anklet that emits a continuous radio signal and triggers an alarm if the offender leaves the confines of the premises or does not return to the property at times when they are required to be at the premises.

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