
Report on an unannounced inspection of
Department of Corrections'
Hawke's Bay Regional Prison's
High Medium H unit, the Receiving Office &
the Separates area
Under the Crimes of Torture Act 1989

17 January 2012



Beverley A Wakem
Chief Ombudsman
National Preventive Mechanism

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 17 January 2012, Inspectors Greg Price and Jacki Jones (to whom I have delegated authority to carry out visits of places of detention under COTA) visited Hawke's Bay Regional Prison (the Prison). Whilst the Prison has six high medium (HM) units, the visit focussed on HMH unit, the receiving office (RO) and the separates area.

Findings

3. The Inspectors were pleased to note a number of positive findings during their visit, for example:
 - There was no evidence that any prisoners had been subject to any treatment which could be construed as torture, or cruel, inhuman or degrading treatment in the six months preceding the visit.
 - The Inspectors had no concerns with the number of restraint incidents in the Prison, and all staff were up to date with their control and restraint refresher training.
 - The individual lockers for prisoners' valuables are a good innovation.
 - The Inspectors had no issues arising from the examination of the complaints process.
 - The Punishment book was of a good standard.
 - There was evidence that some effort was being made to ensure that prisoners' lunches (sandwiches) were of a good standard.
4. There were, however, several areas of concern that needed addressing:
 - The RO is no longer adequate to effectively deal with the increase in prisoner capacity.
 - There is a lack of privacy and confidentiality for prisoners being processed through the RO.

- The separates area, which includes the punishment cells, is looking old and tired.
- Privacy screens in the double-bunked cells do not afford full privacy for the person using the toilet.

Recommendations

- I. I recommend, as a matter of priority, that the Prison address the current issue around the lack of privacy and confidentiality for prisoners during the reception screening process, and the Department give urgent consideration to upgrading the RO.
- II. The separates area needs to be redecorated.
- III. Privacy screens in double-bunked cells need to be upgraded.

Consultation

5. 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 prisoners 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 highlights some areas of concern and makes three recommendations which I will address individually.

a) As a matter of priority, the Prison address the current issue around the lack of privacy and confidentiality for prisoners during the reception screening process, and the Department give urgent consideration to upgrading the RO.

A business case for a new Receiving Office for Hawke's Bay Prison has been developed. Approval of this business case is expected by the end of April 2012. The new Receiving Office is expected to be completed by early 2013.

In the interim, the Prison has implemented the following actions to address the privacy and confidentiality issues.

- Limiting movements while a prisoner is being processed.
- Processing one prisoner at a time.
- If any prisoner is identified as having significant issues, they are interviewed in the Health Unit.

b) The separates area needs to be redecorated.

The painting of the separates area is part of the refurbishment plan for the High Medium Units at Hawke's Bay Prison. The refurbishment is expected to be completed by the end of this year.

c) Privacy screens in double-bunked cells need to be upgraded.

The Department has completed a review of privacy screens at Hawke's Bay Prison. This review has not identified the need to improve privacy screens in the high security units.

Fact page

Hawke's Bay Regional Prison (the Prison)

Formally known as Mangaroa, the Prison was opened in 1989 and is located in the Hawke's Bay region. It is one of New Zealand's largest men's prisons accommodating prisoners with security classifications ranging from minimum to high medium. Hawke's Bay Regional Prison replaced Napier Prison after its closure in 1993.

The Prison has increased in capacity over the years and now comprises a number of 60-bed units, a self-care unit, drug treatment unit, Maori focus unit and a youth unit for prisoners under 18. The youth unit is currently closed following a serious assault on staff members. The Prison also has one of only two Whare Oranga Ake facilities in the service.

Region

The Prison is part of the Prison Services' Central Region

Operating capacity

682

Last inspection

Unannounced inspection, January 2012.

Announced, informal visit, July 2008.

The visit

1. Hawke's Bay Regional Prison (the Prison) was visited on 17 January 2012. The visit was conducted by Inspectors Greg Price and Jacki Jones.¹

Visit methodology

2. The Inspectors requested that some information be made available during the visit. This included:
 - The number of complaints for the previous six months.
 - Control and restraint (C&R) refresher training register for staff.
 - Access to the Punishment book.
 - All current directed segregation paperwork.
 - Use of force register.
3. At the commencement of the visit the Inspectors met with the acting Prison Manager, Yvonne Fuller, before being given a tour of the Prison. On the day of the visit there were 569 prisoners in the Prison.
4. Whilst it is not always practicable for the Inspectors to examine all aspects of detention during the visit, the following areas were examined on this occasion.²

Treatment

- Torture, or cruel, inhuman or degrading treatment
- Directed segregation
- Use of Force
- Privacy / confidentiality issues in the receiving office

Protective measures

- Complaints process
- Disciplinary procedures

Material conditions

- Accommodation

Regimes and activities

- Outdoor exercise
- Food services

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

² 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.apt.ch.

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, or cruel, inhuman or degrading treatment in the six months preceding the visit.

Directed segregation

6. There were no prisoners undergoing directed segregation on the day of the visit. Prisoners on directed segregation are managed in the Management Unit.

Use of Force

7. There were 16 incidents of restraint for the six months preceding the visit. This is an average of 2.7 restraint incidents per month, which is relatively low given the capacity of the Prison.
8. With the exception of two staff on long-term sick leave, all the staff were up to date with their C&R refresher training. The training records indicated a good recall process to identify those staff due for their refresher training.
9. The Inspectors had no concerns with the number of restraint incidents in the Prison.

Privacy / confidentiality issues in the reception area

10. The receiving office (RO), which caters for the movement of prisoners through the establishment, was originally designed to accommodate a muster of 144 prisoners. With the capacity at the site now 682, the RO, and its limited facilities, are no longer adequate to effectively deal with the four-fold increase in prisoner numbers.
11. Due to a lack of suitable storage space, much of the RO is cluttered with prisoners' property and the storage facility that is currently in use has a height restriction (see photographs below).



12. The holding cells are extremely small with graffiti covering most of the walls and doors, and the area set aside for the conduct of strip-searches is woefully inadequate and does not provide the required level of privacy. Privacy screening is in the form of a black plastic sheet.



One of the holding cells in the RO

13. On the day of the visit, a prisoner was observed being interviewed in the staff area (behind the receiving desk) as the two interview rooms were already being utilised. The prisoner was able to be seen and his conversation heard by everyone passing through the RO.



A prisoner being interviewed in the staff area whilst people use the thoroughfare

14. Figures supplied by the Prison show that a significant number of prisoners are processed through the RO each month. For the six-month period 1 July to 31 December 2011, a total of 1145 prisoners were received through the RO. This figure includes remands, transfers, and sentenced prisoners.
15. Whilst I understand that there are plans to replace the current RO, there is no definitive start date.
16. On a positive note, the individual lockers for prisoners' valuables are a good innovation.

Recommendations – Treatment

- I. I recommend, as a matter of priority, that the Prison address the current issues round the lack of privacy and confidentiality for prisoners during the reception screening process, and the Department give urgent consideration to the replacement of the RO.

Good practice

- The individual lockers for prisoners' valuables are a good innovation.

Protective measures

Complaints process

17. For the period 1 July to 31 December 2011 there were 250 prisoner complaints (PC01) recorded. This figure equates to approximately 10 per week across the whole site. The highest number of complaints, 43 (17 per cent), were about property. However, 24 of those relate to property at other prisons. This suggests that the RO staff are managing particularly well with the current facility, which is to their collective credit.
18. There were no complaints alleging assault by staff on prisoners.
19. The Inspectors had no issues arising from the examination of the complaints process.

Disciplinary procedures

20. There were 135 misconducts for the six month period June to December 2011. All misconducts were heard within the time frames required and when this did not occur, reasons were given for the delay. The Punishment book was of a good standard.

21. The punishment cells for the HM units are located in a small corridor just off HMA unit (the management unit). There are four cells, each with their own exercise yard and toilet/shower facilities. Although not used on a regular basis, the separates area and the punishment cells look old and tired.



Punishment cell



Corridor to punishment cells

Recommendations – Protective measures

- II. The separates area needs to be redecorated

Material conditions

Accommodation

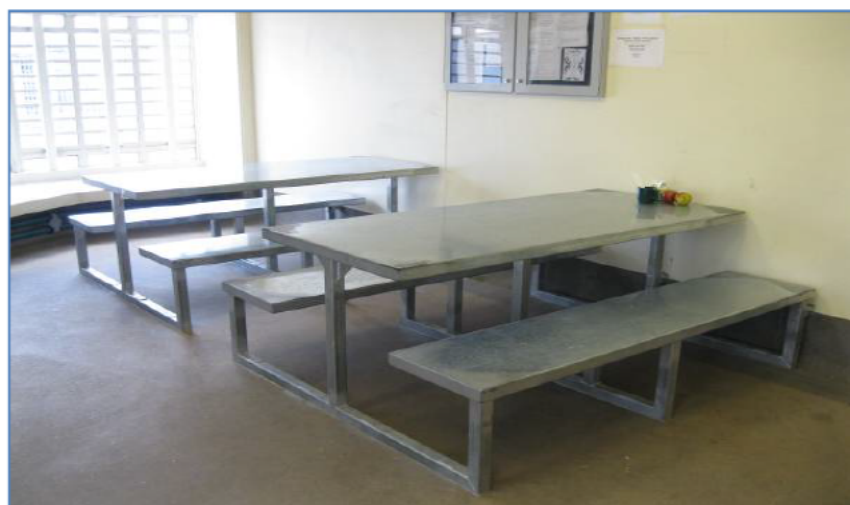
22. The high medium units are now over 23 years old. The age of the units, along with modifications made for security and double-bunking reasons, mean there is limited natural light. The windows at the top of the cells have now been partially covered with steel plate (for security reasons) and the observation slots at the front of the cells have been narrowed.
23. Privacy screens in double-bunked cells consist of steel mesh, which does not afford the prisoner using the toilet full privacy. Some additional work to provide adequate privacy needs to be undertaken. In one cell the prisoners had simply hung a towel over the mesh to address this.
24. HMH unit was reasonably clean and tidy, although graffiti was a problem. Cell furniture was screwed to the floor, as were the dining room tables and chairs. There was a sparse feel to the place with little information on display for prisoners (see photographs over page).



Windows have been partially covered



Double cell with mesh privacy screen



Dining room

Recommendations – Material conditions

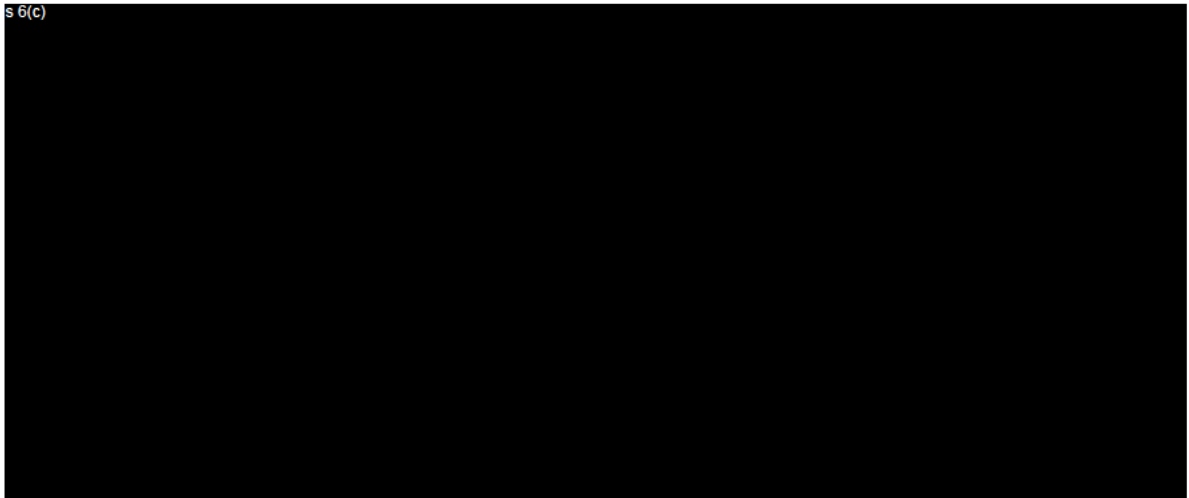
- III. Privacy screens in double-bunked cells need to be upgraded.

Regimes and activities

Outdoor exercise

25. HM units have their own outdoor exercise areas, both on and off the units (see photographs below), and regimes would seem to allow prisoners reasonable access to them. In addition, there are tennis and squash courts which some classifications of prisoners can access.

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

Food services

27. It was pleasing to note that some effort was being made to ensure there was spread on both slices of bread, and that a reasonable quantity of filling was in each sandwich. The prisoners spoken to by the Inspectors claimed the lunches were okay at the Prison, especially since the carrot sandwiches had been taken off the menu.



Recommendations – Regimes and activities

- I have no recommendations to make.

Acknowledgements

28. 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 effort that would have been required to collate the information sought by the Inspectors.

A handwritten signature in black ink, reading "Beverley A. Wakem". The signature is written in a cursive style with a large, looped 'B' and a trailing 'm'.

Beverley A Wakem
Chief Ombudsman
National Preventive Mechanism

Appendix 1: Photographs



Storage for prisoners' valuables



Some prisoners have access to the tennis courts



Squash court



Visits area for HM units

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 against which they can 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).