

Report on an announced inspection of  
Department of Corrections'  
Tongariro Prison  
(Cedar Units One and Two)  
Under the Crimes of Torture Act 1989

21 - 23 November 2012

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## Executive Summary

### Background

1. In 2007, the Ombudsman was 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 21 - 23 November 2012, Chief Inspector Greg Price (to whom I have delegated authority to carry out visits of places of detention under COTA) visited Tongariro Working Prison (the Prison). Whilst the Prison has eight operational units, the inspection focussed on Cedar Units one and two (the Units).
3. On 6 December 2012, the local prison management team at the Prison provided the Inspector with a number of undertakings to address all but one of the issues raised during the visit. The Prisons' responses are included in the body of the report.

### Findings

4. The Chief Inspector (the Inspector) was pleased to note a number of positive findings during his visit, for example:
  - There was no evidence that any prisoners in the Units had been subject to torture, or cruel, inhuman or degrading treatment in the six months preceding the visit.
  - There had been only one incident where force was used in the six-months preceding the visit.
  - The Inspector had no issues of concern arising from the minimal use of restraint across the whole site.
  - Many of the prisoners interviewed stated that most staff treated them with respect.
  - The Inspector had no concerns with the food services for prisoners in the Units.
  - All the prisoners in the Units have more than six hours out of their cell each weekday.
  - All areas visited during the inspection were clean and tidy and reasonably well maintained.
5. There was, however, one area identified by the Inspector that needs to be addressed:
  - Many prisoners in the Units are unemployed despite it being a working prison.

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## Recommendation

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- Every effort should be made by local prison management and/or Corrections Inmate Employment (CIE) to find employment for the prisoners in the Units.

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## Housekeeping

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- Because of the positive and prompt responses to the issues raised by the Inspector, there are no outstanding housekeeping matters.

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## Good Practices

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- Prisoners in the Units who are unemployed are left unlocked within the unit.
- Unit staff are frequently seen interacting with the prisoners in the compounds.
- Local prison management have a process of managing prisoners off precautionary segregation as soon as practicable.
- The Hearing Adjudicator's overall management of the misconduct process is innovative, but still consistent with the legislative requirements, and was favourably commented on by affected prisoners and staff.

## Consultation

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

### Prison Services' comment

Thank you for the opportunity to comment on the above report. I note that a number of positive findings and good practices were identified during the visit. I also note that there was no evidence that any prisoner has been subject to treatment that might have contravened the Crimes of Torture Act (COTA) 1989.

The report recommends that "Every effort should be made by local prison management and / or Corrections Inmate Employment (CIE) to find employment for the prisoners in the Units".

Tongariro prison management is actively working towards finding employment for prisoners. A concept of transforming the prison into a working prison with a primary focus on releasing offenders into employment, or being job ready on release is currently under discussion. This concept will require all prisoners on site to be involved in a minimum of 35 hours of meaningful activity per week. The first phase of this is for a muster of 390 prisoners and is anticipated to be implemented by June 2013.

## Fact page

### Tongariro Working Prison

Tongariro/Rangipo Prison (as it used to be known) is a medium to low security prison and accommodates up to 600 male prisoners.

The prison started as a prison camp called Hautu in Turangi in 1922. The Tongariro/Rangipo Prison site was founded in 1926 and was situated on the Southern boundary of the Hautu site. Rangipo Prison became a separate entity in 1977 and later reverted to a combined site.

This prison located just off State Highway One near Turangi is on a large site of 8481.6 hectares. Around 4200 hectares of this land is forested and 2400 hectares is farmed. The remaining 1840 hectares are roads, river reserves, wetlands and native forest. The West/South Unit is some 14 kilometres south and can be accessed either by an internal road or from State Highway One. The prison site is in the volcanic region and is approximately 20 kilometres from Mt Ruapehu, Tongariro and Ngarahoe.

s.6(c)

The site has a Maori Focus Unit and Harmony Unit<sup>1</sup>.

Employment opportunities consist of:

- Forestry and horticulture work parties
- Sheep and beef farm
- Timber processing mill
- Carpentry workshop
- Food preparation and catering
- Grounds maintenance

### Region

The Prison is part of the Prison Services' Waikato / Central region

### Operating capacity

600

### Last inspection

Announced inspection November 2012

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<sup>1</sup> Corrections website.

## The Visit

1. Tongariro Prison (the Prison) was visited on 21-23 November 2012. The visit was conducted by Chief Inspector Greg Price<sup>2</sup>. The focus of the inspection was Cedar Units One and Two (the Units). The West South Unit was briefly visited on the 23 November 2012 but does not feature in this report.

## Visit methodology

2. The Inspector had requested that some information be made available during or after the visit. This included:
  - a list of all the staff detailing their control and restraint training, and the dates on which they completed their refresher courses;
  - the total number of custody staff, showing the number of female staff;
  - access to the punishment book, and the use of force register;
  - a list of all the PC01 complaints for the previous six months;
  - a list of any incidents where prisoners have alleged assault by staff for the previous six month; and
  - a list of any prisoner currently on directed segregation.

All the requested information was made available to the Inspector upon arrival at the Prison.

3. At the commencement of the visit the Inspector met with the Prisons' Hearing Adjudicator, <sup>s 9(2)(a)</sup> before making his way to the Units. On the day of the visit there were 120 prisoners in the Units. Local prison management light-heartedly described the Units as 'the problem units' seemingly because they house mainly minimum security, low security and low-medium security prisoners. However, the minimal use of restraint (two recorded incidents) for the preceding twelve-month period would seem to suggest that the Units are managing quite satisfactorily with the present mix of prisoners.
4. Whilst it is not always possible for the Inspector to examine all aspects of detention during the visit, the following areas were examined on this occasion.

## Treatment

- Torture, or cruel, inhuman or degrading treatment
- Restraints
- Directed Segregation

<sup>2</sup> Acting under delegation of the National Preventive Mechanism (NPM) Chief Ombudsman Beverley A Wakem and Ombudsman David McGee.

### Protective measures

- Prisoner interviews
- Complaints process

### Material conditions

- Accommodation
- Sanitary conditions
- Food services

### Regimes and activities

- Outdoor exercise
- Work and leisure activities.

5. The Inspector had intended to distribute the COTA structured questionnaire to prisoners. However, during the visit the Inspector found many of the prisoners preferred to talk to him in small groups rather than individually. While group discussions are useful for identifying common problems and getting a sense of the mood or culture within a prison, the Inspector was aware that it does limit the possibility of covering sensitive issues or individual experiences. As a result, care has needed to be taken when interpreting the responses obtained from the group discussions. In any event, the Inspector is satisfied he was able to obtain sufficient information from both his group discussions and individual interviews with prisoners, in order to make the following observations and assessment.

## Treatment

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

6. There was no evidence that any prisoners had been subject to torture, or cruel, inhuman or degrading treatment in the six months preceding the visit.

### *Restraints*

7. There was only one use of force incident in the whole complex for the previous six months. This minimum need for the use of restraint is a positive reflection on the overall operation of the site by management and staff.

### *Segregation (directed)*

8. There were no prisoners on directed segregation at the time of the visit. In the previous six-month period there had been 16 occasions when directed segregation had been used. Eleven of these were under section 58(1)(a) or (b) of the Corrections Act 2004, and five were for medical oversight under section 60(1)(b). None of the 16 periods of segregation continued after the initial 14 day period. The longest period was just four days, and seven lasted just one day. The average period of time any prisoner spent on directed segregation at the site was just 1.5 days. This

was because local prison management has a practice of managing prisoners off non-voluntary segregation as quickly as possible. The Inspector believes this is a very good practice and I commend local prison management for this initiative which seems to work well. The necessary paperwork in each case was completed to a high standard. One of the prisoners interviewed by the Inspector also spoke positively of the practice.

9. The areas used for the placement of directed segregation are the Cedar Units' and s 6(c) separates area. These are essentially punishment units and are not equipped with three-pin power sockets. Thus prisoners undergoing directed segregation are not able to have their televisions or any other appliance that requires power. However, given the amount of time a prisoner spends on non-voluntary segregation, the need for prisoners to have access to three-pin power sockets is somewhat negated by their short stay.
10. The Inspector had no concerns with the use of restraint and segregation in the Units. However, if it became necessary to place a prisoner on directed segregation for the full period of time then some consideration would need to be given to the provision of power in the cell for that individual.

*The local prison management team have now promulgated to all staff the expectation that any prisoners placed on directed segregation will receive more than their minimum entitlements.*

#### *Disciplinary process*

11. The punishment book was examined by the Inspector. There were 273 misconducts across the whole site for the six-month period preceding the visit. The detail and recording of each case was very good and there seemed to be consistency across all the outcomes. The Inspector noted that the Hearing Adjudicators' decision in some cases was to direct the prisoner to correct their behaviour rather than impose a penalty. This is quite innovative and the Inspector considers this to be a good practice noting it would appear to be consistent with the Corrections Act's purposes and principles which is to limit punishments to the more serious offences. One of the prisoners interviewed by the Inspector commented favourably on the particular sentence he had received as he had appreciated the opportunity to make the necessary changes to his behaviour, rather than be subject to a punishment, and any associated consequences for Parole Board appearances and the like.

#### **Recommendations - Treatment**

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- I have no recommendations to make.

#### **Protective measures**

##### *Prisoner interviews*

12. There were 120 prisoners in the Units on the day of the visit and the Inspector spoke informally with a number of them (individually and in groups) over the course



of the visit to get an idea of how they felt they were being treated, and to listen to any other concerns they might have.

13. All the prisoners interviewed indicated that, by and large, staff treated them with respect and that there was a staff member to whom they felt they could go to if they needed help. Almost all expressed concern that they were unable to work because of the unavailability of jobs.
14. The Inspector spoke with one prisoner who had a significant physical disability but appeared to be able to move around the prison quite well. At the time of the visit this prisoner was not housed in the special disability cell although the Inspector understood that the cell had been offered to him upon reception. Staff had since provided this prisoner with a plastic chair for use in the shower which the prisoner gratefully acknowledged. Although there is a specific disability cell in each of the Units, the Inspector believes that a 'grab rail' should be installed in at least one other cell, and in at least one shower, to aid a disabled prisoner to get on and off the toilet, and when showering. A staff member told the Inspector that the disabled prisoner had declined the special cell on arrival in the Unit. Although the prisoner gave no reason at the time, the staff member thought it may have been because the prisoner did not want to displace the current inhabitant. The prisoner with the disability was due for release within two weeks of the Inspectors' visit. Notwithstanding the imminent release of this prisoner and the commendable efforts of staff to accommodate his needs within the Unit, local prison management needs to be cognisant of the requirements and obligations under the United Nations Convention on the Rights of Persons with Disabilities to ensure that any prisoner with a disability is not disadvantaged.

*The local prison management team is giving consideration to placing handrails in one cell and one shower in the Cedar Units to provide alternate accommodation options for prisoners with disabilities. This is currently being costed and handrails sourced.*

15. Some prisoners also said that the nicotine replacement treatment programme (NRT) policy was inflexible as administered by health staff. Their views on this policy would seem to be supported by the increased number of complaints lodged about it in the previous six months. The Inspector appreciates that across all Corrections sites there has been much reported abuse of the process by some prisoners but despite this, he suggests that local prison management takes the necessary steps to ensure that the NRT policy is flexible enough to ensure that genuine smokers are afforded the assistance promised at the time the no smoking policy was introduced in 2011. Local prison management have agreed to do this.
16. None of the prisoners spoken to by the Inspector knew the names of either the prison manager or their residential manager. However, several of the prisoners also said that 'a couple of the bosses' come through the unit on a regular basis. Further inquiries by the Inspector established that these 'bosses' were in fact the prison manager and the residential manager. Such regular management presence in the units is encouraged by the Inspector.

### Complaints process

17. The Inspector was provided with a printout of all the PC.01 complaint forms for the period 1 May to 31 October 2012. There were a total of 29 complaints from 13 prisoners in Cedar One during the period. Seven complaints were in relation to prisoner property, seven were requests for information and five were about the NRT programme. In Cedar Two there were 19 complaints during the period. Six were in relation to requests for information, four were about telephone calls, two were about transfers and two were in relation to property.

Of the nine prisoners spoken to specifically about the complaints process, three did not feel that their complaints were dealt with fairly, and six did not consider that their complaints had been dealt with promptly. In addition, some prisoners suggested that prisoners who complained were then transferred, or threatened with a transfer. However, an examination of the complaint PC01 system indicated that most of the prisoners who had made multiple complaints were still on site. While the Inspector could neither prove nor disprove the allegation about transfers, the evidence available suggests that there is no practice in place whereby complainers are transferred. Some prisoners also indicated that it was difficult to get a complaint form but the complaint statistics suggest that this is not the case. It may be that some prisoners misunderstand the requirement for staff to ensure that the issue is not one that staff can address first. Rather they may be interpreting enquiries by staff as an attempt by those staff to stop the complaint being lodged. Finally, some prisoners also mentioned that it was difficult to see the Global 0800 numbers list as it was displayed behind the Guardroom's 'mirror glass' windows. This was raised by the Inspector with staff (see comments below).

18. On the basis of the information provided by local prison management and the comments from the prisoners spoken to, the Inspector considers that the complaints process seems to be working satisfactorily within the two Units.

*The local prison management team has confirmed that there is no policy or practice to move prisoners who make complaints off site.*

*The local prison management team has now confirmed that no prisoner notices will be placed behind the mirror glass or in guardroom windows unless they are also displayed on prisoner notice boards and are clearly visible.*

### Recommendations – Protective measures

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- I have no recommendations to make.

### Housekeeping

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- Local prison management needs to be cognisant of the requirements and obligations under the United Nations Convention on the Rights of Persons with Disabilities to ensure that any prisoner with a disability is not disadvantaged. There is presently an adequate evacuation procedure, which includes staff

checking individual cells to ensure that every prisoner is accounted for. However to ensure that persons with disabilities are not disadvantaged in an emergency, the evacuation procedure should be reviewed.

*The local prison management team has tasked a Principal Corrections Officer with preparing an amendment to the Unit desk file to specifically deal with the 'what and how' to safely evacuate a unit, ensuring the needs of the infirm, or impaired are considered and responded to appropriately. This will involve obtaining information from the fire service as to how this can be best effected.*

## **Material conditions**

### *Accommodation*

19. The Units are essentially two adjoining 60-bed units sharing a common guardroom, staff facility and separates area. The Units and cells were clean and tidy and free from graffiti. Pictures and personal photographs in individual cells were located only on the approved poster boards or approved unattached cardboard panels.
20. When questioned, all prisoners said they had weekly access to clean bedding and clothing. There were no adverse comments about the accommodation.

### *Sanitary conditions*

21. All the interviewed prisoners said that they had access to a daily shower, save for the servers in the dining room who expressed a desire to be able to have a shower prior to lock-up at 5.00pm, as they said they get quite hot and sweaty in the servery. Local prison management have agreed to facilitate this in the interim, given that once the extended unlock hours are reintroduced, the issue would be resolved.

### *Food*

22. None of the prisoners interviewed by the Inspector said that the food was bad. Most were non-committal about the quality while a few said it was good.
23. During the inspection process the food was observed by the Inspector on both days who found it to be reasonably presented and sufficient in quantity. In the Units the food is provided in bulk and individual servings are done by specified unit prisoners working in the servery.



Two examples of the evening meals served during the visit. The meal on the left was well-presented and looked appetising while the one on the right could have been better presented.



Two of the three sandwiches provided to a prisoner on the first day of the visit. The Inspector accepts that it is difficult to make Vegemite and scrambled egg fillings look appetising once the sandwich has been re-opened up for inspection, but there was ample spread and filling across most of the sandwich - an indication that the improvement required (as reported by the Inspectors at other sites) is being effected.

24. The Inspector had no concerns with the quality and quantity of food services for prisoners in the Units.

#### *Personal safety during volcanic eruptions*

25. Some of the prisoners told the Inspector that they were very concerned about the imminent threat of a volcanic eruption at Mt Ruapehu. The Inspector was able to advise the prisoners that the site had an emergency evacuation procedure for this type of event, especially given the proximity of Mts Ruapehu, Tongariro and Ngarahoe.
26. As it turned out there was an eruption (just after the interviews with the prisoners) albeit at Mt Tongariro.
27. The only consequence of the eruption that the Inspector noted when he visited the next day was the slight smell of sulphur within the Units. The Inspector was not aware of any complaints arising from the sulphur on the day of the eruption.

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## Recommendations – Material conditions

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- I have no recommendations to make.

## Housekeeping

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- An opportunity for the kitchen servers to be able to take a shower after the evening meals and prior to lock-up should be provided.

*The local prison management team have agreed that wherever practicable, prisoners employed as kitchen servers will be allowed to shower before the evening lock-up.*

## Regimes and activities

### *Outdoor exercise*

28. All the prisoners in both units have access to the outdoors for more than six hours per week day. This period will increase further once the extended unlock hours are reintroduced in December 2012.

### *Work and leisure activities*

29. There is very little employment for the majority of prisoners in the Units. To a degree, this is because of their security classifications which limit or preclude employment outside the perimeter fence. While the unemployed prisoners are able to be unlocked for most of their day, there is little to do in the way of recreational activities.
30. However, on the first day of the visit there was an inter-unit game of touch rugby which seemed to be a very popular occurrence with the prisoners.
31. Gymnasium equipment is located within the Unit and is accessible during unlock times.

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## Recommendations – Regimes and activities

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- I recommend that wherever practicable every effort be made to provide suitable employment for the prisoners located in the Units.

## General observations

32. The grounds are well tended and maintained.
33. The Unit staff were courteous and professional in dealing with both visitors and staff entering and exiting the site.

34. Although this inspection focused on the two Cedar Units, the Inspector also visited the <sup>s 6(c)</sup> [REDACTED] briefly. The Inspector would like to thank all the staff who took the time to engage with him and for their open and frank discussions.
35. Staff seemed generally happy in both Units and there seemed to be a good rapport between staff, and between staff and their prisoners, and some good practices were evident. A potential incident involving an aggressive and argumentative prisoner was well-managed by the staff involved at the time, and the prisoner was relocated to the separates without further problems.

### Acknowledgement

36. I appreciate the full co-operation extended to the Inspector particularly by the hearing adjudicator and by the manager and staff during his visit to the Prison. I also acknowledge the amount of work that would have been involved in collating the information sought by the Inspector.
37. I also appreciated the prompt and positive responses provided by the local prison management team to the issues raised by the Inspector shortly after the visit concluded.



Dame Beverley Wakem DNZM, CBE  
Chief Ombudsman  
National Preventive Mechanism

## 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 defines 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 an Inspector (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.

### 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 detention for which it is designated. Site visits can be unannounced.
2. Until, or unless, the Inspector has information that would warrant a specific visit to be unannounced, it is expected that sites will be given notice of an impending visit to facilitate the provision of any information required by the Inspector.
3. As part of the visit preparation, the Inspector may request some information beforehand and request that other information be provided at the time of the visit.
4. 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 Inspector will indicate how the visit should proceed.
5. During the visit, informal interviews and discussions will be undertaken with staff and detainees, and a tour of the facility, preferably in its entirety, should take place.
6. 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.
7. 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 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).