

---

# CUSTODIAL INSPECTOR TASMANIA

---

---

ANNUAL REPORT  
**2016-17**

---

### *About this report*

This report describes the functions and operations of Custodial Inspector for the year ending 30 June 2017.

It is available in print or electronic viewing format to optimise accessibility and ease of navigation. It can also be made available in alternative formats to meet the needs of people with a disability.

Requests should be directed to the Administration and Research Officer at **1800 001 170** or **[office@custodialinspector.tas.gov.au](mailto:office@custodialinspector.tas.gov.au)**.

### *Enquiries about this annual report should be directed to:*

Level 6, 86 Collins Street, Hobart, Tasmania 7000

|            |                                                                                                       |
|------------|-------------------------------------------------------------------------------------------------------|
| Telephone: | <b>1800 001 170</b> (Free call)                                                                       |
| Facsimile: | <b>03 6173 0231</b>                                                                                   |
| Email:     | <b><a href="mailto:office@custodialinspector.tas.gov.au">office@custodialinspector.tas.gov.au</a></b> |
| Website:   | <b><a href="http://www.custodialinspector.tas.gov.au">www.custodialinspector.tas.gov.au</a></b>       |

ISSN-2208-682X

# Contents

|          |                                                                      |           |
|----------|----------------------------------------------------------------------|-----------|
| <b>1</b> | <b>From the Custodial Inspector</b>                                  | <b>1</b>  |
| <b>2</b> | <b>Overview</b>                                                      | <b>3</b>  |
| 2.1      | Background                                                           | 3         |
| 2.2      | Staffing and resources                                               | 3         |
| 2.2.1    | Staff                                                                | 3         |
| 2.2.2    | Consultants                                                          | 3         |
| 2.3      | Functions and powers                                                 | 4         |
| 2.3.1    | Jurisdiction of the Inspector                                        | 4         |
| 2.3.2    | Functions of the Inspector                                           | 5         |
| 2.3.3    | Powers of the Inspector                                              | 6         |
| 2.4      | Relationships                                                        | 7         |
| 2.4.1    | Primary stakeholders                                                 | 7         |
| 2.4.2    | Other stakeholders                                                   | 7         |
| <b>3</b> | <b>Inspections</b>                                                   | <b>8</b>  |
| 3.1      | Hygiene and Environmental Health                                     | 9         |
| 3.2      | Physical Health Care and Management and Treatment of Substance Abuse | 9         |
| 3.3      | Mental Health Care                                                   | 10        |
| <b>4</b> | <b>Key Observations</b>                                              | <b>10</b> |



## I From the Custodial Inspector

In October 2010 the then Minister for Corrections and Consumer Protection commissioned Mr Mick Palmer, AO APM to conduct an independent inquiry into the Risdon Prison Complex: to investigate, examine and report on matters relating to its design, construction and operation. Mr Palmer's report of that inquiry was delivered to the Minister on 30 March 2011.

The report referred to a number of significant problems which needed to be addressed, and proposed a two pronged approach to the reforms it considered necessary: *The first to drive and steer change-management processes; the second to provide continuing independent monitoring and inspection of prison operations.*<sup>1</sup> The report's second recommendation was in the following terms:

*That Government establish an independent, competent, inspection authority to provide for the periodic inspection of custodial services and the publication of all inspection reports.*

The establishment of the Tasmanian Custodial Inspectorate after the passing of the *Custodial Inspector Act 2016* fulfils this key recommendation.

This has been the first year of operation for the inspectorate, but much preparatory work preceded its creation. I would particularly like to acknowledge the generous assistance which has been, and continues to be provided to us by the Office of the Western Australian Inspector of Custodial Services, most significantly in the crucial task of developing inspection standards. I take this opportunity to thank my Western Australian counterpart, Professor Neil Morgan, and his Deputy, Andrew Harvey for their invaluable support and advice over a number of years.

I would also like to thank the New South Wales Inspector of Custodial Services, Fiona Rafter. Mr Harvey liaised with Ms Rafter's office when preparing draft inspection standards, and she kindly agreed to allow us to adopt and adapt New South Wales' Standards for Young People in Detention for use in Tasmania.

A regular telephone link has now been established between custodial inspectors from Western Australia, New South Wales, Queensland, Tasmania and New Zealand, where common experiences and challenges are shared. I have found this forum to be of great value, and the collective wisdom exchanged has already informed the work of the Tasmanian Inspectorate.

<sup>1</sup> Risdon Prison Complex Inquiry, page 10  
[http://www.justice.tas.gov.au/\\_data/assets/pdf\\_file/0005/250097/Final\\_Version\\_Risdon\\_Prison\\_Complex\\_Inquiry.pdf](http://www.justice.tas.gov.au/_data/assets/pdf_file/0005/250097/Final_Version_Risdon_Prison_Complex_Inquiry.pdf)

As can be seen from the balance of this report, that work has now commenced in earnest. Inspections have taken place and reports in relation to those inspections will be completed in the near future. In next year's annual report, I will be able to publish more in this regard.

It only remains to thank the staff of the inspectorate, both of whom have shown great enthusiasm for and commitment to its important role and responsibilities and without whom it would not be functioning at the high level it has reached in a comparatively short time.

Richard Connock

**Custodial Inspector**

October 2017

## 2 Overview

### 2.1 Background

The *Custodial Inspector Act 2016* provides for the establishment of a Custodial Inspector in Tasmania. The Act was passed by the Tasmanian Parliament, and received Royal Assent, on 9 September 2016 and was proclaimed by the Governor to commence on 16 November 2016.

The Custodial Inspector is an independent statutory officer appointed by the Governor under the Custodial Inspector Act. In performing his functions, the Inspector must act independently, impartially and in the public interest.

The purpose of the Custodial Inspector is to provide oversight of all aspects of prisons and youth detention centre services in Tasmania. In particular, the Custodial Inspector provides external scrutiny through onsite inspections and the subsequent publication of reports detailing findings and recommendations. The focus of the Inspector is on issues relating to the management, control and security of the State's prisons and youth detention centre and the care and welfare of prisoners and detainees.

Richard Connock was appointed Tasmania's Custodial Inspector on 31 January 2016 and is the first holder of the office. Mr Connock is also the Tasmanian Ombudsman and Health Complaints Commissioner.

### 2.2 Staffing and resources

#### 2.2.1 Staff

The permanent staffing establishment of the office is the Inspector, one Principal Officer (0.9 full time equivalent) and one Administration and Research Officer (0.6 full time equivalent).

The permanent role of Principal Officer was filled in December 2016. The permanent role of Administration and Research Officer was filled in May 2017.

The Custodial Inspector has formally delegated all of his functions and powers under sections 6 and 8 of the Custodial Inspector Act to both the Principal Officer and Administration and Research Officer.

#### 2.2.2 Consultants

Expert consultants have been engaged on inspections to enhance the capacity of the office to examine specialised areas in custodial services. Some were employees

from other state service agencies. Each expert consultant will be named in the relevant inspection report. The Inspector acknowledges the contributions of these consultants, and thanks them for their support, which adds greatly to the work of the office.

The office has also sought to enhance its inspection planning and processes by drawing on the knowledge and expertise of other jurisdictions, particularly the Office of the Inspector of Custodial Services (OICS) in Western Australia. Prior to the proclamation of the Custodial Inspector Act and the recruitment of permanent staff, Mr Andrew Harvey Deputy Inspector from OICS was seconded to assist with the establishment of the office and drafting of inspection standards for adult prisoners in Tasmania.

## 2.3 Functions and powers

### 2.3.1 Jurisdiction of the Inspector

The Custodial Inspector has jurisdiction over all custodial centres in Tasmania. A custodial centre is defined as a prison within the meaning of the *Corrections Act 1997*, and a detention centre within the meaning of the *Youth Justice Act 1997*.

In effect, this means that at present Tasmania Prison Service facilities, including the remand centre and holding cells at the Hobart Reception Prison and the Launceston Reception Prison, and the Ashley Youth Detention Centre are subject to the oversight of the Custodial Inspector.

The sites currently included within the jurisdiction of the Custodial Inspector are:

- Risdon Prison Complex (medium and maximum security);
- Ron Barwick Minimum Security Prison;
- Mary Hutchinson Women's Prison;
- Hobart Reception Prison; and
- Launceston Reception Prison;

which are operated by the Tasmania Prison Service (TPS) and

- Ashley Youth Detention Centre

which is managed by Children and Youth Services, an operational unit of the Department of Health and Human Services (DHHS).

The jurisdiction of the Inspector also includes prisoner and detainee transport vehicles.

The Custodial Inspector reports directly to the Minister responsible for the custodial centre on the treatment of, and conditions for, prisoners and detainees



in Tasmania. The responsible Minister is required to table a copy of the Inspector's report in each House of Parliament. The Custodial Inspector is not in any way connected to, or influenced by, TPS or Children and Youth Services.

The Inspector does not respond to individual complaints but where appropriate, may refer complaints received to relevant agencies and/or oversight bodies for resolution.

### 2.3.2 Functions of the Inspector

The functions of the Inspector are set out in section 6 of the Custodial Inspector Act. These are as follows:

#### 6. Functions

*(1) The Inspector has the following functions:*

- (a) to carry out a mandatory inspection of each custodial centre at least once every 3 years;*
- (b) to carry out an occasional inspection and review of any custodial centre at any time, of his or her own accord or as requested by the responsible Minister;*
- (c) to prepare and publish guidelines and standards in relation to the conduct of inspections;*
- (d) to report to the responsible Minister or Parliament on the various inspections carried out by the Inspector;*
- (e) to report to the responsible Minister or Parliament on any particular issue or general matter relating to the functions of the Inspector if, in his or her opinion, it is in the interest of any person or in the public interest to do so;*
- (f) to report to Parliament on any particular issue or general matter relating to the functions of the Inspector if requested to do so by either House of Parliament or a Committee of either House of Parliament;*
- (g) to provide an annual report to Parliament;*
- (h) to include in any report such advice or recommendations as the Inspector thinks appropriate including, but not limited to –*
  - (i) advice or recommendations relating to the safety, custody, care, wellbeing and rehabilitation of prisoners and detainees; and*
  - (ii) information relating to education and programs to assist in the rehabilitation of prisoners and detainees;*
- (i) such other functions as may be conferred or imposed on the Inspector under this*

or any other Act.

**(2)** *The Inspector may from time to time amend the guidelines and standards prepared and published under subsection (1).*

### 2.3.3 Powers of the Inspector

The powers of the Inspector are set out in section 8 of the Custodial Inspector Act. These are as follows:

#### **8. Powers**

*The Inspector has the following powers:*

- (a)** *to visit and examine any custodial centre, and any vehicle, equipment, container or other thing in a custodial centre, at any time the Inspector thinks fit;*
- (b)** *to obtain full access to all documents, including health records, that –*
  - (i)** *are in the possession of a Department, public authority or any other body or person prescribed by the regulations; and*
  - (ii)** *relate to any custodial centre or persons in custody or detained, or residing, at a custodial centre –**and to make copies of, or take extracts from, those documents or records and to remove and retain those copies or extracts;*
- (c)** *to require, in any reasonable manner that the Inspector considers appropriate, a person whose work is concerned with the operation of a custodial centre to provide any information that is relevant to the performance or exercise of the Inspector's functions or powers under this Act;*
- (d)** *to enter and examine any equipment or container outside a custodial centre which is used in connection with the custodial centre, and any vehicle used to transport prisoners or detainees, at any time the Inspector thinks fit and with any assistance or equipment that the Inspector thinks is reasonably necessary;*
- (e)** *to require any member of the staff of the custodial centre or other person who provides services to prisoners or detainees to –*
  - (i)** *supply information or produce documents or other things relating to any matter, or class of matters, concerning the custodial centre's operations; and*
  - (ii)** *attend before the Inspector to answer questions or produce documents or other things relating to a custodial centre's operations;*
- (f)** *to refer matters relating to a custodial centre to an appropriate agency for consideration or action;*

*(g) to obtain access to, and communicate with, persons in custody or detained or residing at a custodial centre;*

*(h) to do all things necessary or convenient to be done in connection with the performance and exercise of his or her functions and powers under this Act.*

## 2.4 Relationships

### 2.4.1 Primary stakeholders

The office of the Custodial Inspector maintains regular communication with TPS, Correctional Health Services (it is part of DHHS)<sup>2</sup> and Children and Youth Services and liaises closely with appropriate officers in those agencies when planning and undertaking inspections. Information sharing occurs between the office and stakeholder agencies to support the research and inspection activities of the office.

### 2.4.2 Other stakeholders

Following the establishment of the office, meetings were held with a number of stakeholders to explain the role of the Custodial Inspector and introduce staff. These included:

- the Secretary and Deputy Secretary of the Department of Justice;
- the Minister for Corrections;
- the Acting Minister for Corrections;
- the Commissioner for Children and Young People and his staff;
- the Tasmanian Auditor-General; and
- Prisoners Legal Service.

Communication with these stakeholders remains open, with meetings held as and when needed.

The office has ongoing communication and consultation with the Office of the Ombudsman Tasmania and the Prison Official Visitors regarding complaints trends and areas of interest for inspection.

Staff from the office maintain a close relationship with similar inspection agencies in other states. These inter jurisdictional relationships foster the exchange of information, expertise and knowledge, and have proved invaluable in determining Tasmania's inspection standards and processes.

<sup>2</sup> Correctional Health Services is responsible for healthcare provision at all custodial centres in Tasmania.

### 3 Inspections

Inspection standards are a key part of the inspection process. Standards are used to assess performance against objective criteria to ensure facilities are operating safely and efficiently and have a focus on positive outcomes and human rights. Standards need to cover every aspect of each facility from reception to reintegration following release.

Much of the initial work undertaken by the office related to the development of inspection standards for Tasmania; one set of standards relating to adult prisoners and a separate set of standards for young people in detention.

All inspections of Tasmanian custodial centres are conducted against the Custodial Inspector's published inspection standards. The inspection standards are based on international human rights instruments, and cover matters considered essential to the safe, respectful and purposeful treatment of detainees and prisoners in custody. The standards are closely aligned to those used by both the custodial inspectorates in Western Australia and New South Wales.

During an inspection a number of sources of evidence are used to assess the custodial centre against the standards. These include onsite visits; meetings with senior management; individual interviews carried out with staff, prisoners and detainees; survey results; group discussions with prisoners and detainees; documentation; and observation by inspectors. Where relevant, the office also invites external consultants to join inspections to supplement internal expertise.

Section 20 of the Custodial Inspector Act requires the Inspector to prepare an inspection report with findings and recommendations. Inspection reports are published in Parliament after an inspection is completed. Prior to publication of the report, custodial centre management and the responsible Minister are consulted, and invited to correct any factual inaccuracies in the report.

As Tasmania is a small jurisdiction, to respond to legislative obligations using the limited resources available, the Custodial Inspector undertakes themed inspections of custodial centres focussing on particular inspection standards. At the end of a three year cycle, all facets of custodial centres will have been inspected against the full set of inspection standards.

In the 2016-17 financial year the following theme based inspections which fall under the 'Care and Wellbeing' standards were undertaken:

- Hygiene and Environmental Health
- Physical Health Care and Management and Treatment of Substance Abuse
- Mental Health Care.

Preliminary reports of findings from these inspections are currently being completed and an omnibus report covering the full suite of Care and Wellbeing standards will be tabled in Parliament when all inspections relating to Care and Wellbeing are complete. All inspection reports will also be published on the Custodial Inspector's website.

### 3.1 Hygiene and Environmental Health

In May 2017, an inspection into hygiene and environmental health at adult custodial centres in Tasmania was undertaken. The inspection was conducted across all TPS sites. Consultancy services were obtained from Environmental Health Services at DHHS – Public Health Services.

The inspection focussed on clothing and bedding, general hygiene and environmental health issues including cleanliness, cell temperatures, food safety and water sampling. These issues are important factors in the quality of life for prisoners and detainees as they have an impact on their physical health, comfort and morale.

The hygiene and environmental health inspection at Ashley Youth Detention Centre will be undertaken in the next reporting period.

### 3.2 Physical Health Care and Management and Treatment of Substance Abuse

An inspection into physical health care and the management and treatment of substance abuse at custodial centres was also commenced in May 2017. The Clinical Director, Justice Health Services Mental Health, Justice Health and Alcohol & Drug Services (Australian Capital Territory Government) provided consultancy services for this inspection.

The inspection related to all physical health services provided at custodial centres in Tasmania ranging from intake screening and assessment, administration of medications and service delivery, to provision of information relating to, and the promotion of, healthy lifestyles to prisoners and detainees.

In relation to management and treatment of substance abuse the inspection considered whether there are comprehensive and integrated strategies to minimise the harm arising from drugs through education, treatment and enforcement.

### 3.3 Mental Health Care

An inspection into mental health care was commenced in June 2017. This inspection will continue into the next reporting period. Professor James Ogloff AM FAPS, Director, Centre for Forensic Behavioural Science at Swinburne University of Technology provided consultancy services for this inspection. Professor Ogloff is also the Director, Psychological Services and Research at the Victorian Institute of Forensic Mental Health (Forensicare).

This inspection focusses on whether the custodial centres have appropriate and adequate provision to meet the mental health care needs of prisoners. In particular, the inspection covers a broad range of issues including whether mental health is assessed as part of the initial health screening upon entry into custody; post release care arrangements are made for people exiting the system; processes exist to detect and manage prisoners in crisis, particularly where they may self-harm; and mental health awareness training for staff.

## 4 Key Observations

Whilst the office has not yet published a report (and therefore has not made any recommendations), some issues have become apparent since the office began its work.

Continual growth in prisoner numbers appears to be the biggest challenge for TPS. The prison service has to respond to an ever-increasing prisoner population and there is no indication that this increase is abating. Reports published by the Australian Bureau of Statistics<sup>3</sup> show that:

- on 30 June 2016, the number of adult prisoners in Tasmanian prisons was 569, an increase of 10 per cent (50 prisoners) from 2015; and
- on 30 June 2015, the number of adult prisoners in Tasmanian prisons was 519, an increase of 15 per cent (68 prisoners) from 2014.

It appears that while the prisons have not yet reached full capacity, almost all the state's prisons are over-crowded in the sense that they hold many more people than they were designed to hold. This is because many cells intended for one person are now 'double-bunked' and some cells intended for two people are now 'triple-bunked'.

---

<sup>3</sup> Australian Bureau of Statistics Report 4517.0 – 'Prisoners in Australia, 2016'; 'Prisoners in Australia, 2015'; 'Prisoners in Australia, 2014'.

Prisons are crowded, services are stretched, and the increase in prisoner numbers creates system pressures such as:

- length of time spent in reception prisons before being transferred to a prison (due to bed shortages and association issues in the prisons);
- double and triple bunking of inmates;
- minimum security rated prisoners being located at the medium and maximum security prisons;
- availability of, and access to, programmes to prepare prisoners for release;
- demands on all services, particularly health services and related care in the community post-release;
- restricted time out of cell due to excessive locks downs caused by staff shortages (that is, inability on the part of TPS to meet the agreed prisoner to custodial staff ratio).

The infrastructure and the prison design also cause many challenges for TPS as they impact heavily upon prison resources and create pressure points in the prison system. This is particularly evident in the management of prisoner conflict and association issues and the lack of a specialised mental health unit.

The infrastructure at Ron Barwick Minimum Security Prison is over 50 years old and requires continual preventative maintenance and repair. There are issues with the capacity of plumbing and electrical systems, cell temperature (thermal comfort), access issues for elderly and infirm prisoners, and unsatisfactory kitchen facilities within units.

In a 2001 report about the old Risdon Prison, a former Tasmanian Ombudsman said:<sup>4</sup>

*No prison is a pleasant place, but the Risdon Prison is a particularly unpleasant place. It is bleak, cold and grey and, even if a very large amount of money were to be spent on the facility, it is unlikely that it could ever conform to contemporary prison standards. The buildings reflect years of relative neglect by successive governments and even when it was built, forty years ago, the Prison would have been out of date and totally inappropriate in its design for the rigours of a Tasmanian winter. Moreover, it was built as a Maximum Security Prison and remains so, even though the demand has never been for a full maximum security facility. When additional stresses, such as an unexpected surge in prisoner numbers or a significant change in the nature of the prisoner population occur, as has happened at Risdon, there is an inevitable strain on resources and management. Staff morale drops, inmate unrest and dissatisfaction escalate and*

<sup>4</sup> O'Grady, Janine (June 2001). *Report on an Inquiry into Risdon Prison, Tasmanian Office of the Ombudsman* p. 3.

*the system begins to crack. This is what had happened at Risdon, and had been happening for a significant period of time prior to the investigation.*

Despite the passing of 16 years, little has changed at Ron Barwick Minimum Security Prison. Though the facility now accommodates minimum security prisoners only, the infrastructure remains largely unchanged with the exception of small alterations made at the time of recommissioning to reflect the prison's altered security classification. The changes included removing the window bars from the cells; (replaced with sliding windows and flyscreens); removing the screens on the front of the divisions; improved heating and storage in cells; and the installation of kitchenettes in some divisions. However, there is no escaping the fact that Ron Barwick Minimum Security Prison is an old, open-air building that is not designed to withstand the cold Tasmanian climate. Its design is based on an American prison located in warmer climates; the bitumen yards are essentially open to the elements and are cold and wet in inclement weather.

A Legislative Council Select Committee on Correctional Services and Sentencing reported in 1999 that the outdated, substandard conditions in the old Risdon Prison were aggravated by a lack of funding to provide for maintenance, equipment replacement, and the building itself was deteriorating. The old Risdon Prison was to be converted to a minimum security prison until better facilities for that purpose could be built. That is, it was to be used, in the short to medium term, as a minimum security prison – and yet there is no forward plan for replacement.

The situation at Launceston Reception Prison is even worse and there are real concerns as to whether the facility is fit for purpose. Prisoners and detainees do not have access to natural daylight or fresh airflow; there is no hot running water in cells, inmate toilets or the day yard; the showers are defective and in need of replacement or repair; moreover there are not enough showers to meet demand.

Mary Hutchison Women's Prison has simply outgrown the design of the facility, with prisoner numbers exceeding capacity on a daily basis. Hobart Reception Prison is often bed-locked due to capacity constraints in the other custodial centres.

It seems clear that Tasmania needs a new facility to accommodate increasing demand.



