
CUSTODIAL INSPECTOR TASMANIA

ANNUAL REPORT
2017-18

About this report

This report describes the functions and operations of the Custodial Inspector for the year ending 30 June 2018.

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.

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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 and contained the following recommendation:

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 following the passing of the *Custodial Inspector Act 2016* fulfils this key recommendation.

This has been the second year of operation for the inspectorate, and as can be seen from the balance of this report, the work of the inspectorate is demanding and unrelenting given the limited resources the team operates with. In 2017-18, inspections were undertaken against the full suite of Care and Wellbeing inspection standards for all adult custodial centres and the Ashley Youth Detention Centre was assessed for compliance with the inspection standards relating to health and wellbeing. Inspections against the Custody suite of inspection standards were also commenced, with onsite inspections having been completed and the process of evidence gathering and verification, analysis of documentation, and report writing continuing.

The generous assistance provided to us by the Office of the Western Australian Inspector of Custodial Services continues, most significantly with the secondment of Mr Jim Bryden, Inspections and Research Officer, to assist with the Custody inspection. I take this opportunity to thank my Western Australian counterpart, Professor Neil Morgan, for this assistance.

Previous assistance from the Office of the Western Australian Inspector related to the development of inspection standards for adult prisoners. I am pleased to report that the *Inspection Standards for Adult Custodial Services in Tasmania* were finalised in February 2018 after extensive consultation with the Tasmania Prison Service. I am grateful to the Prison Service for its cooperation and contributions, by means of feedback and comments, in finalising these Standards.

I would also like to thank the New South Wales Inspector of Custodial Services, Fiona Rafter, who kindly allowed us to adopt and adapt New South Wales' Standards for Young People in Detention for use in Tasmania. The *Inspection*

Standards for Young People in Detention in Tasmania were finalised in July 2018, shortly after the end of the reporting year. Again, extensive consultation was undertaken with stakeholders including the Department of Communities Tasmania and the Commissioner for Children and Young People. The contributions made by these stakeholders is appreciated.

A regular telephone link between custodial inspectors from Western Australia, New South Wales, Queensland, Tasmania and New Zealand, has continued and now includes the custodial inspector for the Australian Capital Territory and the South Australian Guardian and Training Centre Visitor from the Office of the Guardian for Children and Young People. Liaison at officer level also occurs on a regular and informal basis.

My inaugural inspection report covering the entire suite of Care and Wellbeing inspection standards for adult custodial services has been prepared, and a consultation draft was provided to the Tasmania Prison Service and the Tasmanian Health Service, which is responsible for Correctional Health Services and provides health care services at all custodial centres in Tasmania, for comment on 7 September 2018. My inspection report covering the Health and Wellbeing inspection standards relating to the Ashley Youth Detention Centre has also been prepared, and was delivered to the Department of Communities Tasmania and the Tasmanian Health Service, for consultation, on 18 September 2018.

The relevant parties have a period of time from receipt to consider the inspection report and to provide a formal response to me. This process provides stakeholders with an opportunity to comment on the draft, to identify possible errors, to respond to recommendations, and to provide additional information. Following the consultation period, I will then deliver the reports to the relevant Ministers for consideration, and to lay before each House of Parliament. These processes ensure that the Minister and the Departments are well aware of my findings and recommendations before the reports become public. The *Custodial Inspector Act* imposes a minimum 30 day embargo period after a report is delivered to the relevant Minister, and before tabling in Parliament. This means the public release of all inspection reports is delayed for over a month after it is finalised.

In next year's annual report, I will be able to publish details of the stakeholders' responses to the recommendations contained in my inspection reports, in addition to reporting on actions taken to address my concerns.

Richard Connock
Custodial Inspector

October 2018

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. When 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.

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 the Administration and Research Officer.

Having now operated for two years, it is clear that the current staffing establishment is inadequate. Without additional funding, there is a very high risk that mandatory inspection of each custodial centre at least once every three years cannot be achieved. The Inspectorate's budget submission for the 2019-20 financial year will indicate an adequate budget to fulfil its responsibilities under the *Custodial Inspector Act*.

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. The use of consultants is critical to provide independent expert advice and opinion to assist with and support the inspections. Engagement of consultants by prison inspectorates is an accepted practise both nationally and internationally, with other custodial inspectorates in Australia and Her Majesty's Inspectorate of Prisons for England and Wales using experts to assist with inspections.

Expert consultant fees are a major but necessary expense, given the broad range of expertise required to inspect against all standards. Having undertaken a number of inspections with assistance from area specialists, the inspectorate is now aware of its funding limitations, particularly with regard to consultancy fees.

Each expert consultant engaged by the inspectorate 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.

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 in the jurisdiction of the Custodial Inspector are:

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

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

- Ashley Youth Detention Centre (AYDC)

which is managed by Children and Youth Services, an operational unit of the

Department of Communities Tasmania (DCT).

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 Services¹ 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.

¹ Correctional Health Services is a part of the Tasmanian Health Service and is responsible for healthcare provision at all custodial centres in Tasmania.

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.

Regular meetings are held with TPS management.

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 evaluate 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 15 of the *Custodial Inspector Act* requires the Inspector to prepare an inspection report with findings and recommendations. Inspection reports are tabled 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 inspections were undertaken:

- Hygiene and Environmental Health at all custodial centres.
- Physical Health Care and Management and Treatment of Substance Abuse at all custodial centres.
- Mental Health Care at southern Tasmanian adult custodial centres.

In the 2017-18 financial year a number of other inspections were undertaken:

- Food and Nutrition at all custodial centres.
- Mental Health Care at Launceston Reception Prison and Ashley Youth Detention Centre.

Compliance with the remainder of the Care and Wellbeing standards for adult custodial centres and standards relating to health and wellbeing standards for young people in detention was assessed by desktop audit and onsite inspections throughout this reporting year. A draft omnibus report covering the full suite of Care and Wellbeing standards in adult custodial centres was delivered to TPS and Tasmania Health Service (THS) for consultation on 7 September 2018. A draft omnibus report relating to AYDC, covering health and wellbeing standards, was delivered to DCT and THS for consultation on 18 September 2018.

An inspection of all custodial centres against the Custody standards was undertaken in early 2018 and evidence gathering and analysis is continuing. A preliminary report of findings from this inspection will be completed shortly.

All inspection reports will be published on the Custodial Inspector's website following tabling in Parliament.

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. The hygiene and environmental health inspection at Ashley Youth Detention Centre was undertaken in August 2017.

Consultancy services for both inspections were obtained from Environmental Health Services at the Department of Health – 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.

3.2 Food and Nutrition

An inspection into food and nutrition at all custodial centres was completed in September 2017. Ms Ngaire Hobbins, Accredited Practising Dietician, provided consultancy services for this inspection.

The inspection considered whether the fundamental rights of prisoners and detainees to be provided with sufficient nutritious and varied food, and to have access to potable drinking water at all times, were being met.

3.3 Mental Health Care

An inspection into mental health care was commenced in June 2017 and continued into this 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 focussed on whether custodial centres have made appropriate and adequate provision to meet the mental health care needs of prisoners. In particular, the inspection covered 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.

3.4 Custody

An inspection into custody at all custodial centres was commenced with an onsite inspection in February 2018 and will continue into the next reporting period. Mr Jim Bryden, Inspections and Research Officer from OICS provided consultancy services for this inspection, which focusses on all aspects of custody from the processes of reception and admission of persons into custody, sentence administration to release arrangements. In particular, the inspection covered a broad range of issues relating to treatment of prisoners and detainees in custody; whether prison infrastructure and design is adequate for the prison population; dynamic and procedural security; transport of prisoners; discipline; use of force, weapons and restraint; and emergency management.

4 Key Observations

As indicated in the last annual report, 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.

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'. In the previous 12 months TPS has continued to use additional beds as a temporary measure when prisoner numbers in a particular unit exceed the total capacity. The inspectorate has observed mattresses on floors in some areas and a significant number of permanent bunk beds have also been installed in some cells.

As previously reported the increase in prisoner numbers creates system pressures such as:

- 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; and
- restricted time out of cell due to lock downs caused by staff shortages (that is, TPS' inability to meet the agreed prisoner to custodial staff ratio).

TPS funding for infrastructure is also an issue. The outdated, substandard facilities, in particular the Ron Barwick Minimum Security Prison and the Launceston Reception Prison, were also addressed in the last annual report. The apparent lack of funding for maintenance and equipment replacement potentially contributes to lower staff morale and escalation of prisoner discontent. Some prisoners report that they would prefer to be accommodated in the medium or maximum security precincts of Risdon Prison Complex, because the minimum security prison is cold and run down. There is no short term solution for these infrastructure problems. While the Tasmanian Government has announced plans for a new prison in northern Tasmania, this will not be completed for some years and the prisoner population continues to rise. Positively, the current construction of a new two storey, 20-bed, facility, and five bedrooms in a separate new mother-baby cottage will assist with the population pressures in the Mary Hutchinson Women's Prison.

My inaugural inspection report, covering the entire suite of Care and Wellbeing inspection standards at adult custodial centres, identified the following issues:

- **Hygiene and Environmental Health**
The inspection identified concerns in all adult custodial centres, largely as a result of constraints either imposed through budget pressures or existing infrastructure. These concerns include the standard of kitchenettes in some areas of RBMSP, thermal comfort in RBMSP, and drinking water quality in MHWP and RPC. There are inconsistencies in clothing standards at each facility and some clothing issued to prisoners in RPC was in very poor condition at the time of inspection. The initial clothing pack issued to prisoners should include extra socks and underwear and additional items such as shorts for recreation and polar fleece jumpers.
- **Physical Health Care**
The increase in prisoner numbers places increased pressure on the health system, leading to longer waiting times and, in some cases, results in the health needs of prisoners not being met. Correctional Health Services staff were dedicated and working very hard within the resources and facilities available. Staffing levels, health care processes and infrastructure, however, have not kept up with the changing demand and types of health needs. While prisoner numbers have increased and extra beds have been installed, corresponding health infrastructure and services have not been increased proportionally. Additionally, there are serious impediments to prisoners accessing health services, in large part due to custodial requirements and processes imposed by TPS.
- **Management and Treatment of Substance Abuse**
There are many shortcomings with the existing pharmacotherapy program in Tasmanian prisons, including access to the program for prisoners, trafficking, the burden that it places on Correctional Health Services (restricting access to the health clinic while dosing is taking place), and there are limited places available in the community to enable prisoners to continue treatment on release. There is a problem involving misuse, abuse and diversion of buprenorphine in the community and the current prison environment is a reflection of that problem. Additionally, there are only two Alcohol and Drug Counsellors on TPS staff to service over 600 prisoners and there is inadequate supervision and lack of professional support provided to these counsellors. There is no Alcohol and Drug Treatment Unit for women prisoners and no plans to establish one.

- **Food and Nutrition**
TPS generally provides a nutritionally adequate menu for prisoners, with the exception of some issues concerning the provision of special diets, a somewhat excessive supply of bread elevating potential sodium intake, and less than ideal availability of fresh vegetables and fruit. Production and meal delivery constraints affect the final quality of meals for many prisoners, so that prisoners often reject meals. In their place, prisoners substitute low nutritional options from the canteen, resulting in wastage of meals and a negative impact on the nutritional status of prisoners. There are limited healthy options available through the canteen.
- **Mental Health Care**
This inspection found that current mental health services do not meet the needs of the Tasmanian prison population. Services are understaffed; there is lack of mental health leadership in the prisons; there is no formal service level agreement with the Forensic Mental Health Service; dedicated spaces that are conducive for the provision of mental health care in the prisons are lacking; and there is a need for ongoing training and support for correctional officers to understand and manage people with mental health issues.
- **Lockdowns Due to Staff Shortages**
Lockdowns cause strain in the delivery of pastoral care by prison chaplains and also result in a high incidence of closures of the RPC Activities Centre. Staff shortages in other areas result in correctional officers from the Activities Centre being redeployed and without correctional officers, the Activities Centre must be closed. Consequently, all recreation, education and program activities are cancelled. Likewise, prison chaplains cannot access prisoners to provide pastoral care during lockdowns.
- **External Contacts and Communications**
This inspection highlighted that most programs and services aimed at maintaining and developing family relationships are facilitated by external organisations on the basis of goodwill. It is considered that at least some of these programs should be funded by TPS and reliance on external organisations to facilitate programs, at no cost, is unsustainable. TPS needs to undertake more work in facilitating stronger family relationships throughout all custodial centres and this area requires close monitoring.

- **Access to Telephones and Cost of Phone Calls**

There are not enough telephones in some areas of adult custodial centres to meet the demand of prisoner numbers and access to telephones is impacted by prisoners' structured day and work commitments. The high cost of telephone calls made through the Arunta telephone system (the telephone system used in TPS facilities, which enables monitoring of phone calls) is also of significant concern.

In relation to AYDC, the inspection report relating to health and wellbeing inspection standards for young people in detention, identified the following issues:

- **Physical Health Care**

There are some gaps in physical health care services at AYDC. Ideally, the services of an adolescent physician and an Aboriginal health worker should be engaged to attend AYDC on a regular basis.

- **Mental Health Care**

There are limited dedicated psychiatry and clinical psychology services for young people in detention. These services need to be increased to meet the mental health care needs of young people at AYDC. Additionally, links to external psychiatry services should be established, to assist young people upon release.

- **Food and Nutrition**

While meals provided at AYDC are generally of good nutritional value and menu planning aligns with dietary guidelines for younger people, AYDC should engage ongoing dietician services to support its nutrition education initiatives, to provide education on the nutritional needs of young people to staff and residents, and to provide one-on-one counselling support to residents where needed. There is also some concern regarding excessive consumption of sugar, and to a somewhat lesser, but still concerning extent, salt.

