



## **INCORRECTIONS II: Correcting Government**

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## 1. Introduction

In September 2005, the Queensland Department of Corrective Services released a written response to the *Incorrections* Report, a year after its initial launch. The reason for this substantial delay in the Department's response is unclear. What is clear, however, is that little has changed in terms of both the 'on the ground' management of prisoners, and the Department's willingness to engage in open, informed, evidence-based debate on the subject of corrections in Queensland.

This paper provides a response to the Department's response. It aims to correct any misinformation related by the Department, reiterate issues that have remained unaddressed by the Department, and also to give credit to the Department where credit is due.

This paper will begin by responding to the Department's 'response summary'. It will then address each of the Department's retorts to the *Incorrections* recommendations. Finally, it will draw attention to those recommendations that were not responded to by the Department, proposing some possible reasons for their disregard.<sup>1</sup>

## 2. Responding to the Department's 'response summary'

### 2.1 The Department's self-praise

At the outset, it should be noted that the *Incorrections* Report voiced general support for many of the principles enshrined in the *Corrective Services Act 2000* (Qld). It noted the apparent commitment to gradual release and case management, and acknowledged that, on its face, certain aspects of the legislation and procedures reflected international best practice (see pp72, 90). It went on, however, to demonstrate that the rhetoric contained in the legislation and procedures is generally not reflected in practice. For example, while gradual release is provided for in the legislation, relatively few prisoners are in fact released gradually (see pp102-109); and case management has been described by ex-prisoners as a farce (see pp95-96).

Further, the Department's goals of 'community safety' and 'crime prevention' were acknowledged in the *Incorrections* Report to be appropriate (at p6). However, the Report noted that such goals are hollow without a commitment to prisoner rehabilitation, and it reported that, in the words of one ex-prisoner, 'there is no amount of anything that remotely resembles rehabilitation' in the Queensland corrective services system (see p98).

Similarly, the *Incorrections* Report noted the Department's successes related to reducing prisoner assaults and spending on physical security infrastructure

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<sup>1</sup> Hereafter, any page reference relates to pages of the *Incorrections* Report unless otherwise stated, and any mention of 'the Department' refers to the Queensland Department of Corrective Services.

(at p6). Thus, the Department was duly credited with, and praised for, its achievements in the *Incorrections* Report.

However, in its response summary, the Department provides itself with some *undue* praise in relation to prisoners' rooms, food, recreation, training, employment, health care, allowances and income. The Department says that the *Incorrections* Report fails to acknowledge these things. In fact, the *Incorrections* Report does mention many of them, however for the most part it refers to them with criticism. While the physical amenities provided in most prisons are certainly adequate:

- Many prisoners lack access to adequate recreation because they are being held in observation cells or maximum security facilities.
- Queensland has the second lowest rate of prisoner education in Australia – only 27% of prisoners in Queensland are enrolled in educational courses (see p119).
- The prisoner employment rate has been decreasing over the last few years – only 75% of Queensland prisoners are 'employed'<sup>2</sup> compared with a national average of 80% (see p116).
- Prisoners are provided with health care, but many reports have been made that it is often sub-standard (see pp123-124)<sup>3</sup> – further, prisoners' capacity to give informed consent is removed by section 15 of the *Corrective Services Act 2000* (Qld) which states that prisoners must submit to examination and treatment if a doctor considers it is required.
- The 'amenities allowance' has remained unchanged at \$9 since 1991 (see p117).
- Remuneration received by prisoners for work they engage in is equivalent to 'slave' rates – most prisoners receive a maximum of around \$4 a day for their labour (see p117).

The Department also provides itself with undue praise on the topic of recidivism. The Minister has proudly quoted the 'recidivism' statistic of 27.7% in a number of settings. However, this number represents the percentage of ex-prisoners who were released in 2001-02 and who returned to prison within two years after their release (Productivity Commission 2005: C11). Thus, it represents 'recidivism' both narrowly defined and temporally limited; it is therefore liable to mislead.

Recidivism is better reflected by counting the number of prisoners currently under sentence who have been in prison before. On this measure, Queensland does not perform so well. **According to ABS data, 64.1% of Queensland prisoners have been in prison before, well above the national average of 57% (ABS 2004).**

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<sup>2</sup> Further, the definition of employment is limited – a prisoner will be considered 'employed' for the purpose of this statistic if they are engaged in work for only two hours a week for 15 weeks.

<sup>3</sup> Refer also to the recent findings of the Coroner in *The Inquest into the Death of Mark Anthony Waldron, known as Mark Anthony Hurricane*, 12 October 2005.

## 2.2 The Department's critique of the *Incorrections* methodology

**It is extremely hypocritical of the Department to criticise the methodology of the *Incorrections* study considering that its limitations were the direct result of the Department's decision to deny the researcher access to key stakeholder groups.** The researcher formally requested permission from the Department to interview prisoners (under section 100, discussed below at Part 3.4), however she was denied such permission. The researcher also requested that Departmental staff be permitted to make submissions to the study. This was necessary because the Department's *Code of Ethics* prevents staff members from speaking publicly about the corrective services system without permission. This request was also denied.

The researcher was thereby left with few options for data collection. As a result, only ex-prisoners, service providers and former Departmental staff members were able to participate.

Data was collected from these groups through written submissions and focus groups:

- 10 written submissions were received from ex-prisoners
- 12 written submissions were received from service providers and former Departmental staff members
- 10 ex-prisoners attended focus groups
- 16 service providers attended focus groups.

To remove any doubt, there was no overlap between the ex-prisoners who contributed written submissions and those who attended focus groups – thus a total of 20 ex-prisoners made submissions to the researcher. There was some overlap between the service providers who attended focus groups and made written submissions – a grand total of 18 service providers and former Departmental staff had input into the project. Thus, a total of 38 different stakeholders contributed to the research reported on in the *Incorrections* Report. The Report does not mislead its readers on this issue (see p19).

The 'extensiveness' of consultation in the *Incorrections* study compares more than favourably with that of the review undertaken by the Department itself. In its response to the *Incorrections* Report, the Department boasts that, in its own review of the *Corrective Services Act 2000*, 127 submissions were received from stakeholders. Yet when the source of these submissions is examined, it is found that:

- 74 of the 127 submissions (58%) were from staff within the Department;
- 11 of the 127 submissions (9%) were from other government departments or agencies;
- the remaining 42 submissions (33%) were from other stakeholder groups, including individuals, service providers and advocacy groups;

- of these remaining 42 submissions, only 16 were from individuals (the remainder were from organisations) – therefore, a maximum of only 16 prisoners and ex-prisoners could have contributed to the Review.

Thus, when the methodology of the Department's own review is examined, it can be seen that **the Department consulted with only four more non-government stakeholders than the *Incorrections* researcher**. With all the resources of Government behind it, and with no legislative restrictions, it might be wondered why more people were not consulted with. Most importantly, it seems absurd that no structural effort seems to have been made to include prisoners in the consultation process: there is no mention of any focus groups with prisoners or ex-prisoners being held.

### 2.3 'Old, recycled and unsubstantiated claims'?

There is one comment made in the Department's response to *Incorrections* that cannot be ignored. The Department claims that the research reported on in *Incorrections* contains 'many old, recycled and unsubstantiated claims about the treatment of prisoners which have already been investigated'.

Claims of prisoner mistreatment have indeed been raised by prisoners, ex-prisoners and other stakeholders in the past. In this sense they are 'old and recycled'. However, prisoners, service providers and even former Departmental staff report that prisoner mistreatment is still a systemic problem in the Queensland corrections system. If these claims are 'old', this would seem imply an even greater need for them to be dealt with, once and for all.

It is true that these claims have been investigated in the past. In the course of many of these investigations, the claims of prisoner mistreatment have been substantiated. The researcher has been informed that certain internal investigations have been undertaken, but the results have been made Cabinet-in-confidence because they were damning of the Department. The courts themselves have concluded that there are serious doubts that the Department is able to ensure the physical safety of those prisoners in its care.<sup>4</sup> Further, the Queensland Anti-Discrimination Commission has been investigating allegations of mistreatment of women in prison for the last 18 months. If these claims were indeed 'unsubstantiated' surely there would be insufficient material to sustain such a lengthy investigation.

## 3. Recommendations responded to

The Department's response to the *Incorrections* recommendations will be addressed in turn:

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<sup>4</sup> The Queensland Court of Appeal in *R v York; Ex parte Attorney-General (Q)* [2004] QCA 361, and the High Court in *York v The Queen* [2005] HCA 60.

### 3.1 Recommendation 1 – The need for an inquiry

The Department responds to the call for a large-scale public inquiry into the corrective services system, akin to the Kennedy Review, by listing all the bodies that oversee the system. However, this does not speak to the recommendation. None of the bodies listed are able, or expected, to conduct large-scale, thorough reviews of the systemic issues facing the corrective services system. Further, as was noted in *Incorrections*, the independence of some of these bodies is questionable. For example, official visitors are considered by prisoners to be 'part of the system', and otherwise powerless to help them (see p107). The Ethical Standards Unit resides in the Department and is thus not sufficiently removed from the system to oversee it. The Chief Inspector reports to the Director-General and is thus not as 'independent' as is claimed, and the Crime and Misconduct Commission tends to refer any complaints that come to it back to the Department.

Further, it is inaccurate to state that complaints to the Ombudsman do not demonstrate that systemic problems exist within the system. The Queensland Ombudsman's *Annual Report* states that 1387 complaints from 836 prisoner were received by the Ombudsman's office in 2003/04. This would seem to imply that systemic problems may certainly exist within the system. Indeed, the *Annual Report* states that some key themes in complaints are observable. Most commonly, complaints are lodged with respect to sentence management issues, in particular, 'prisoners' progression towards community release' (Queensland Ombudsman 2004)

### 3.2 Recommendation 2 – Prisoners as stakeholders

The Department cites its legislative review as an opportunity for stakeholders to have their say. The shortcomings in its consultation process have been discussed above (at Part 2.2). Most importantly, only a limited number of non-government stakeholders were consulted with, and no structured effort seems to have been made to obtain input from prisoners or ex-prisoners themselves.

### 3.3 Recommendation 3 – Public education

The Department claims that its website, *Corrections News* and media releases serve as a source of public education. The website is certainly more substantial now than it was 12 months ago, and the Department is to be commended for this. However media releases and *Corrections News* are more accurately described as marketing tools rather than serving an educative function.

This *Incorrections* recommendation calls for evidence-based debate and public education. However, the community might be forgiven for viewing the Department as being more concerned with bolstering its reputation than engaging in open and meaningful discussion. The Department's response to the *Incorrections* Report lends some support to this. Its failure to publicly cede any of the points raised in the Report, let alone consider implementing any of

the evidence-based recommendations made, seems to suggest an unwillingness to engage in constructive debate.

### 3.4 Recommendation 4 – Fostering a culture of transparency

The Department states that its processing of 950 freedom of information (FOI) requests demonstrates a culture of transparency – however, the Department is required by law to process FOI requests. Further, the only reason a member of the public would have to go through the FOI process is if the Department had first refused a direct request from them for a certain document. The Department's fulfilment of its legal obligations under FOI legislation does not demonstrate a commitment to openness.

The Department's comments with regard to section 100 of the *Corrective Services Act 2000* (Qld) are also misleading. Under section 100, it is unlawful to interview or obtain a statement from a prisoner without the chief executive's permission. In its response, the Department implies that permission will be granted in the event that no other public interest consideration (eg. privacy of victims of crime, etc.) prevails. However, the author of *Incorrections*, a legitimate academic researcher, requested permission to interview prisoners for research purposes and was refused.

The Department also claims that its statistical information is readily available. It is true that some statistics are in the *Annual Reports*. However, many statistics are not made public, even if they are requested by researchers. For example, the author of *Incorrections* requested statistics on gradual release yet these were never provided. It might be wondered what a researcher must do to be 'approved' for the purpose of gaining statistics.

Of further concern is the Department's admission that many documents, including program evaluations, are made Cabinet-in-confidence. Surely an adverse inference must be drawn from this: if documents are made Cabinet-in-confidence, the community is entitled to assume that such documents must be damning to Government.

### 3.5 Recommendation 5 – Mothers and children's units

The *Incorrections* Report recommended that purpose-built facilities be established to cater for mothers who wish to have their young children accommodated with them in prison. Purpose-built units are not currently available to Queensland prisoners – the cells in which mothers and their children are accommodated are simply a little larger than a standard cell. Also, those cells that are designated for mothers and their children are in maximum security facilities. This is a highly inappropriate environment for children to be housed in. Further, a maximum of only eight women prisoners in Queensland are able to have their children accommodated with them in prison at any time. This represents only 3% of the female prisoner population, inadequate considering around two thirds of women in prison are primary carers of children.

It is submitted that the mothers and babies unit at Emu Plains Correctional Centre in New South Wales be examined by the Department as an appropriate model for purpose-built facilities for mothers and their young children.

### 3.6 Recommendation 6 – 17 year old prisoners

Currently, 17 year olds are not considered ‘children’ under the *Juvenile Justice Act 1992* (Qld) and thus, they are tried as adults. Queensland is unique in this regard. The Department notes that this is under review, however it has been under review for many years. It is submitted that the Queensland Government urgently address this issue.

Further, noting that 17 year olds are accommodated in units separate from other prisoners does not address the concerns raised in the *Incorrections Report*. Their safety once they are released into ‘mainstream’ prison cannot be assured (see p113).

### 3.7 Recommendation 9 – Community-based sentencing alternatives

The Department notes its commitment to community corrections in response to this recommendation. This is indeed to be applauded. Yet, it is unclear why this commitment has not translated into the use of the Director-General’s discretion under section 194 of the *Corrective Services Act 2000* (Qld). Under this section, the Director-General of Corrective Services has the power to extend the definition of ‘community work’ under a community service order to include participation in approved programs. This is *not* the responsibility of the Attorney-General – it is the Director-General of Corrective Services that is given this power under the Act. It is submitted that the Director-General exercise this discretion as soon as is practicable

With regard to the review of the *Penalties and Sentences Act 1992* (Qld), the consultation process, if any, remains elusive. Indeed, the author of *Incorrections* has sought an opportunity to contribute to the review to no avail. It is submitted that the review process be made public and that broad community consultation occur.

Furthermore, the Department’s deference to other departments, such as the Department of Justice and the Attorney-General, seems absurd considering the Beattie Government’s stated commitment in other settings to a whole-of-government approach to policy development and implementation. Indeed, the *Incorrections Report* directed its recommendations to a number of departments in addition to the Department of Corrective Services in recognition of this commitment. It seems, from the Department’s comments in its response that, again, this rhetoric is not being reflected in reality.

### 3.8 Recommendation 10 – Short custodial sentences

This *Incorrections* recommendation suggests that custodial sentences of six months or less be abolished. As stated in Part 3.7 above, for a Department that is part of a Government committed to a whole-of-government approach, it is no response to defer to other departments. The community expects departments with overlapping concerns to work together to address policy challenges.

### 3.9 Recommendation 11 – Making case management and programs available to all prisoners

The Department says that ‘ideally’, prisoners will progress from high to low security, receiving intervention, support and planning as they go. However, the *Incorrections* Report demonstrated (at pp92-99) that in reality this does not happen. Prisoners serving short sentences do not progress through the system and many are released straight from high security facilities into the community due to the lack of low security beds. Indeed, the Prisoners’ Legal Service reports that an inability to progress through the system is the most common complaint referred to it.

On the Department’s own admission, case management services are restricted to prisoners serving sentences of more than 12 months. The majority of prisoners flowing through the system are serving sentences of 12 months or less. Also, case management is not available to prisoners on remand, and remandees comprise 22% of the prison population (ABS 2004). Thus, in practice, the majority of Queensland prisoners do not have access to case management services.

The Department states that prisoners serving sentences of 12 months or less are generally fast-tracked to open security. Yet all the anecdotal evidence suggests that this is not in fact the case, and the statistics would suggest this to be a physical impossibility: only 11% of prisoners reside in open security facilities (Queensland Department of Corrective Services 2004), yet around 22% of prisoners are serving sentences of 12 months or less at any one time in Queensland prisons (ABS 2004). Were statistics on gradual release and prisoner progression through the system publicly available, this issue could be further evaluated, but since the Department will not release the relevant statistics, this is not possible.

The Department also states that research suggests that prisoners on short sentences should focus on ‘developing a work ethic’ through education and training rather than participating in programs. The *Incorrections* Report emphasises the importance of education, training and employment for all prisoners (at pp61-65). Yet it demonstrates that, in fact, education, training and employment are not available to all prisoners in Queensland (see Part 2.1 above). Further, virtually no attempt is made to link prison industry work, or educative programs, with employment on the outside. Best practice suggests that corrective services should aim to link their education, training and

employment programs to post-release employment opportunities. Yet, in Queensland, no attempt is made to transform participation in education, training and prison industry work into post-release employment. Many ex-prisoners in the *Incorrections* study reported that participation in prison industry work did not improve their job prospects at all (p117).

The *Incorrections* Report relates a number of best practice programs that could be used as a model for reform in Queensland (see pp61-65). It is critical that linkages be formed with industries that are not only willing to accept prisoners' 'slave labour' but are also prepared to consider employing them on release. One Queensland prisoner worked for a particular prison industry for four years, and was acknowledged to be a competent, hard worker. Yet on her release, when she applied for a job with this company, she was told that they did not employ ex-prisoners. As long as this is the case, employment in prison is not likely to benefit prisoners in the long-term.

The Department also notes its \$5.9m funding commitment to sex offender programs in prisons. This is welcome, however it must be remembered that significant gaps exist in program delivery in community corrections also.

### 3.10 Recommendation 12 – Access to programs before PPCBR date

The Department cites the Integrated Offender Management System (IOMS) as its means of ensuring that prisoners are able to meet their program requirements prior to their post-prison community based release (PPCRB) eligibility date. It remains to be seen whether this system is capable of meeting this goal.<sup>5</sup>

The Department also notes in its response to this recommendation that certain evaluations have taken place and recommendations have been made regarding addressing the special needs of Indigenous and female offenders. Again, this is welcome. However in light of the fact that the Business Model Review recommended the abolition of the separate women's and Aboriginal and Torres Strait Islander policy units, there are legitimate concerns amongst stakeholders that sufficient expertise will not be available to support the implementation of such recommendations.

### 3.11 Recommendation 13 – ORNI

The Department reports that ORNI has been independently evaluated. However the results of this evaluation have not been made publicly available. Without further information, it would be fair to make an adverse inference regarding the adequacy of its 'psychometric properties'.

The Department also states, in support of ORNI, that other leading correctional jurisdictions use similar instruments. This was acknowledged in

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<sup>5</sup> The *Courier Mail* (17 October 2005) has reported that it is not.

*Incorrections* – ORNI is based on a Canadian instrument (see p134). The Department must also be aware that the relevant Canadian instrument has been condemned as being discriminatory against women and Aboriginal prisoners (Canadian Human Rights Commission 2003). It seems strange that Queensland would willingly adopt an instrument so similar to one that has been censured in another ‘leading’ correctional jurisdiction.

### 3.12 Recommendation 14 – Correctional officers as case managers

It was recommended in *Incorrections* that correctional officers not fulfil case management functions, so that ‘caring’ relationships will not conflict with disciplinary ones. The Department states that this does in fact occur and that the author misunderstands the process. This is an interesting comment for the Department to make, considering that this issue was raised by ex-prisoners themselves in the course of the *Incorrections* research. Ex-prisoners reported that the case management system was a farce because case managers did not take an active interest in their personal development, and/or because case managers also performed supervisory functions (p95).

To remove any doubt, community correctional officers in low security prisons, as well as unit managers, do perform both supervisory and case management functions. Thus, role conflict does exist, just as the ex-prisoners identified.

### 3.13 Recommendation 16 – Specialised programs

In its response, the Department states that ‘specialised programs are not always the best approach’. Yet, the *Incorrections* Report demonstrates that the delivery of specialised programs to prisoners with special needs, particularly women, young people, Indigenous people and people with impaired capacity, is indeed international best practice (see pp 52-56). This fact is reflected in the United Nations *Standard Minimum Rules for the Treatment of Prisoners* (see particularly articles 63 and 69).

The program developments reported on by the Department in its response are welcome. However, it is important that special needs groups be consulted in the development of programs that affect them, and key stakeholders have voiced concern that such consultation has not occurred. Stakeholders remain hopeful that they will be consulted in the near future.

### 3.14 Recommendation 22 – Funding to aftercare services

The Department notes that funding is available to aftercare services from a number of sources, and that service delivery gaps are in the process of being identified. This is welcome. It is assumed that once these gaps are identified, the Department will increase its funding of these services because they are drastically under-funded. Currently, the Department contributes only \$145,000 to post-release services state-wide. This does not compare well with the \$4-

5m contributed by the Victorian Department of Corrective Services for equivalent services.

### 3.15 Recommendation 23 – Transitions program

At the time of writing *Incorrections*, the Transitions program was only in the process of being trialled. It is now being rolled out in Queensland prisons, and this is to be praised. The shortcoming of the program is that it is not based on a throughcare model – that is, it does not combine case management, programming and aftercare into a coordinated process of rehabilitation that begins when prisoners enter the system and ends with their gradual release. Having said this, it is a welcome first step towards facilitating prisoners' successful release into the community.

### 3.16 Recommendation 24 – Community agency telephone contact

It was recommended in *Incorrections* that the telephone numbers of a range of welfare and community-based agencies (including aftercare, housing, counselling and treatment services), be made available to prisoners on the prisoner telephone system to enable them to plan for their release. The Department raises the 'good order and security' of the prisons, and the need to ensure that calls to 'inappropriate' persons are not made, as reasons against this. Yet, it is difficult to see how these fears could be realised through the mere facilitation of telephone contact with key social services.

### 3.17 Recommendation 27 – No release of prisoners without money

The Department's claim that no prisoner is released without money and/or a ticket home is simply not true. A number of ex-prisoners and service providers have raised this as a key concern.

It seems that there is no consistent approach between the various correctional centres. Some centres do provide prisoners with these things on their release; for others, the process is unpredictable. Further, the availability of funds may depend on which day of the week a prisoner is released – it has been suggested to the researcher that if prisoners are released on a Friday, there is often insufficient money available in petty cash to provide the prisoner with cash for accommodation, travel and other necessities.

Similarly, not all centres have an arrangement with Centrelink regarding the provision of funds to prisoners on release. Again, there is no consistent approach between centres.

It is therefore misleading of the Department to suggest that all prisoners are released with funds and/or tickets home.

### 3.18 Recommendation 29 – Partnership with Department of Housing

It is heartening to hear that a partnership is being developed with the Department of Housing. However, it would be of interest to many stakeholders to know the kinds of services that will result from any such arrangement. It is notable that the Department has failed to respond to the *Incorrections* recommendations regarding housing services, ie. the suggestion that housing support worker positions be established in all prisons, and that supported accommodation be provided to newly released prisoners who are homeless (see Part 4.2 below).

### 3.19 Recommendation 32 – Partnership with Department of Employment and Training

*Incorrections* recommends that the Department of Corrective Services, along with the Department of Employment and Training, seek out industry partners that are willing to provide prisoners with employment on release. It is no answer to say that prisoners engage in prison industry work, considering that (as discussed in Part 3.9 above) this work rarely translates into post-release employment.

It may be wondered that the Department boasts of a 25% ex-prisoner employment rate, since this is extremely low. It was established in *Incorrections* that ex-prisoners are much less likely to re-offend or return to prison if they are able to secure employment post-release (see pp61-65). It is submitted that the Department should demonstrate a commitment to increasing the rate of employment amongst ex-prisoners as a matter of urgency.

### 3.20 Recommendation 34 – Attracting potential employers

The Department cites its Post-Release Employment Assistance Program (PREAP) as an example of an attempt to create post-release employment opportunities for ex-prisoners. This, indeed, is the kind of program that Queensland needs if community safety is to be enhanced; as noted above, employment amongst ex-prisoners reduces recidivism, and leads to dramatically improved release outcomes (see pp61-65). The Department is to be praised for its \$1.5m state-wide contribution to this program.

The shortcoming of the program is that it is not delivered within a throughcare framework. As noted above, for the best outcomes, prison industry work should contribute towards prisoners' post-release employment prospects; partnerships should be created with industries that are willing to employ prisoners both during the period of their incarceration and upon their release. Further, it must not be forgotten that those programs around the world that accord with best practice combine welfare assistance and life skills training with employment and job search (see pp61-64).

In summary, the PREAP is a promising starting point, and is something that may be built upon by the Department in future.

### 3.21 Recommendation 39 – Access to confidential counselling

The Department states that it must have full access to information related to the wellbeing of all prisoners, and that confidential counselling by external providers may lead to 'duty of care issues'. Yet, the ex-prisoners who responded to the *Incorrections* study were of the view that their wellbeing would be greatly enhanced if they were able to access independent counselling services. Ex-prisoners reported that it was impossible to confide in workers associated with 'the system' because their vulnerability could be, and often was, exploited. Indeed, ex-prisoners stated that if Departmental staff became aware of their distress, a response akin to disciplinary action often resulted (see pp120-122). Further, ex-prisoners reported that one-on-one counselling from workers within the system was extremely hard to come by. The Department must address this issue if community safety is to be enhanced; otherwise, prisoners will continue to be released in an even more precarious emotional state than when they were admitted.

The Department notes that it funds chaplaincy services, family transport for visits, Indigenous elder visits and post-prison services. But none of these services are the equivalent of professional, confidential counselling services. Chaplains certainly find themselves in a position where they must undertake the role of a counsellor, but their key role is to provide spiritual guidance and pastoral care. Funding family transport services is certainly worthwhile, but is not relevant to the issue of counselling. Funding for Indigenous elder visits has been drastically cut in recent years, such that many prisons do not have elder visitors available (see Part 3.25 below). And the provision of counselling services only after release fails to acknowledge the psychological distress experienced by prisoners while they are inside, and their desperate need for support at that time.

### 3.22 Recommendation 40 – Observation cells

It is extremely concerning that the Department supports the continued use of observation cells, considering their use is not consistent with best practice. Indeed, their use has been reviewed in New South Wales.

The Department cites the recommendations of the Royal Commission into Aboriginal Deaths in Custody as one reason for its continued use of observation cells, but the *Incorrections* Report demonstrated that there are alternative humane methods of ensuring the safety of prisoners at risk of self-harm; in particular, best practice suggests that prisoners at risk of self-harm should be treated in therapeutic facilities separate from the mainstream prisoner population (see p53).

Further, a number of ex-prisoners stated in the course of the *Incorrections* research that prisoners are sometimes placed in these cells for disciplinary reasons, or merely for crying, not because they have been identified as being at risk of self-harm. An urgent investigation into these allegations is necessary.

### 3.23 Recommendation 41 – Strip searches

While the Department is correct in referring to its procedures as providing some safeguards for prisoners experiencing strip searches, ex-prisoners who participated in the *Incorrections* study stated that these procedures are not always followed. For example, a number of female ex-prisoners stated that male correctional officers are often present at strip searches of female prisoners, and that the strip searches of women are often capable of being viewed by male staff on monitors (see pp110-111). Further, it was alleged in the course of the research that strip searches have been performed on babies and young children, something the Department does not have the legislative power to do (p126). This should be investigated by the Department as a matter of urgency.

### 3.24 Recommendations 42 and 45 – Drug treatment

The Department states that detoxification is available to prisoners. However, for most prisoners, this amounts to them being provided with medication to mitigate the symptoms of withdrawal, and going ‘cold turkey’ in their cell. This is not true detoxification, which requires a therapeutic approach to the treatment of drug addiction. Detoxification should be closely supervised, and should occur in a medical unit in case of severe withdrawal reactions and/or complications. The findings of the coroner in a recent inquest into the death of a prisoner undergoing ‘detoxification’ in a Queensland prison provides support for this assertion.<sup>6</sup> Standard detoxifying agents, such as naltrexone or buprenorphine, should be available to all prisoners withdrawing from opiates. Further, best practice suggests that detoxification should be followed by stabilisation and relapse prevention.

The Department’s assurances that it is seeking to develop collaborative partnerships with community agencies to provide aftercare services is encouraging.

### 3.25 Recommendation 46 – Best practice approach to blood-borne diseases

In its response, the Department reiterates its zero-tolerance approach to drug use by prisoners. It seems absurd that the Department feels justified in maintaining such a stance when best practice, and indeed broader

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<sup>6</sup> *The Inquest into the Death of Mark Anthony Waldron, known as Mark Anthony Hurricane*, 12 October 2005.

Queensland Government policies, support a harm minimisation approach to drug use.

Further, the *Incorrections* Report did not advocate for the provision of syringes to prisoners. Rather, it called for a realistic response to the fact that it is well known that drug use does occur in Queensland prisons. The provision of needle exchange facilities is a harm minimisation strategy – it does not amount to the encouragement of drug use amongst prisoners.

### 3.26 Recommendation 47 – Aboriginal elder visits

It is misleading of the Department to say that Aboriginal elder visits are funded by them, consistent with the recommendations of the Royal Commission into Aboriginal Deaths in Custody. The reality is that in recent years, funding to Aboriginal elder visiting programs has been drastically cut. Information provided to the *Incorrections* researcher suggests that, currently, only three elders groups receive such funding from the Department and, as a result, most Queensland prisons do not have elders programs.

### 3.27 Recommendation 49 – Family visits

The Department's response to the *Incorrections* recommendation related to family visits is misleading.

First, it is not correct to say that contact visits cannot be denied for disciplinary reasons. On the contrary, many prisoners are denied contact visits subsequent to positive urine tests. The Department's retort may be that the reason for this denial of visits is to ensure that the prisoner is not able to obtain more drugs from their visitors, but since strip searches are conducted after every contact visit (see Part 3.22 above), any concern of this nature would seem to be misplaced.

Second, the Department states that prisons 'generally' have visit areas set aside for children. Not all do, yet all Queensland prisons accommodate parents.

Third, it is reasonable of the Department to note that private visits are not always appropriate in light of security concerns. However, in other jurisdictions, visiting areas have been designed in such a way that a level of privacy is achieved in a manner consistent with maintaining security (see p69). These jurisdictions provide appropriate models for reform in Queensland.

Fourth, of course it is true that not all prisoners will want their family members to be involved in their case management. It is noted with approval in *Incorrections* that the Department's policy on the point states that a prisoner's consent should first be obtained (at p89). The fact is that, despite the Department's own policy allowing for it, family members are almost never

involved, or even kept informed, of prisoners' management, even when a prisoner desires that this occur.

## 4. Recommendations not responded to

It is appropriate also to note that a number of *Incorrections* recommendations were not responded to by the Department. In some cases (eg. recommendations 8, 28) this is because the recommendation was primarily directed at another Department. In other cases, an adverse inference against the Department may be drawn as a result of their failure to respond.

### 4.1 Gradual release

In the past, the Department has boasted in the media about its best practice gradual release policies. However, the *Incorrections* Report demonstrated that, in practice, few prisoners are actually gradually released. Most are released straight from prison at the end of their sentence, often from high security facilities, and are not subject to any supervision in the community subsequent to their release (see pp102-107). *Incorrections* recommended a number of reforms to the gradual release process in Queensland (see recommendations 17-20). The Department's silence on this issue would tend to indicate an admission of the deficiencies in the practice of gradual release.

Further, it is extremely disappointing that the Department has announced that the gradual release policies of which it has been so proud in the past are to be scaled back. Key stakeholders have been informed by the Department that home detention and the release to work program are to be abolished. It seems absurd that those aspects of Queensland corrections that do accord with best practice are being abandoned. This does not represent an evidence-based approach to corrections.

### 4.2 Housing

It is well-established that the need for post-release housing for prisoners is a critical issue in Queensland corrections. Homelessness amongst ex-prisoners is wide-spread. This compromises community safety; post-release outcomes for prisoners are greatly enhanced if they have access to secure housing on the outside (pp57-59).

The *Incorrections* Report recommended that housing support workers be placed in each prison and that the Department commit some funds to supported accommodation for ex-prisoners (recommendations 30, 31). These recommendations are based on practices already in place in other Australian states (see pp59-61). These inter-state programs may provide an appropriate model for reform in Queensland.

### 4.3 Treatment of prisoners with mental health issues

The recently released *Not for Service* Report is extremely critical of the treatment of people with mental illness in Queensland prisons (Mental Health Council of Australia 2005). The *Incorrections* Report voiced similar concerns. For example, it made a number of recommendations regarding the inappropriate use of crisis support units in Queensland prisons (recommendations 36-38). It is submitted that the mistreatment of prisoners with mental health issues is a matter that must be addressed immediately. The hardships being faced by such prisoners are extreme; indeed, one ex-prisoner described prisoners with mental illness as living under 'third world' conditions. It is disappointing that these recommendations were not addressed by the Department; again, it can only be assumed that they are aware of the issues and are unable to provide the community with reassurance in relation to them.

### 4.4 Drug use in prison

Further recommendations were made in the *Incorrections* Report regarding the implementation of a harm minimisation approach to prisoner drug use (see recommendations 43 and 44). The key issues they address have largely been dealt with in Part 3.23 above.

### 4.5 Miscellaneous

In addition to those listed above, other recommendations not responded to by the Department include:

- Recommendation 7 – that special units be established for young prisoners (aged 18-25 years), staffed by specially trained youth workers and teachers, with generous visiting and leave of absence arrangements.
- Recommendation 15 – that a thorough evaluation of all prison programs be conducted.
- Recommendation 21 – that the discretion of the Queensland Community Corrections Board in relation to prisoner release be increased at the expense of Ministerial control.
- Recommendation 25 – that aftercare service providers be able to access prisoners during the course of their sentence, in an attempt to foster a throughcare approach to prisoner management.
- Recommendation 26 – that the Department contribute to the funding of drop-in centres for newly released prisoners.
- Recommendation 33 – that the rate of prisoner remuneration be reviewed.
- Recommendation 35 – that additional funds be committed to prisoner education.
- Recommendation 48 – that Aboriginal Liaison Officers be employed at each prison to support Indigenous prisoners and their families.

- Recommendation 50 – that the Department of Corrective Services work with the Department of Child Safety to provide assistance to the families, and in particular the children, of prisoners.

These recommendations make a number of suggestions for reform in a manner consistent with best practice. Unfortunately, the Department has not indicated its reasons for not considering them.

## 5. Conclusion

The response of the Queensland Department of Corrective Services to the *Incorrections* Report, while belated, is welcomed by its author. The Department should be given credit where credit is due – clearly, some important developments have taken place since the *Incorrections* Report was released.

However, a number of gaps remain. In particular, the Department's stance on the treatment of prisoners with mental illness, gradual release and classification is of concern. Its continued lack of transparency, and its culture of self-congratulation at the expense of inviting informed evidence-based debate is also worrying. Further, its reluctance to take a whole-of-government approach in response to the issues raised by the Report is disappointing, in light of the Beattie government's commitment to this policy philosophy in other settings.

The researcher's hope is that in future, the Department will be more willing to listen to the stories of the prisoners in its care; it is they who know the system best, and it is they whose lives are most affected by it.

## 6. References

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