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OFFICE OF THE INSPECTOR OF CUSTODIAL SERVICES

REPORT OF THE SHORT FOLLOW-UP  
INSPECTION OF BROOME REGIONAL PRISON



**Report of the Short Follow-up  
Inspection of Broome Regional Prison**

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# The Inspector's Overview

## BROOME REGIONAL PRISON: YET TO DEMONSTRATE SUSTAINED IMPROVEMENT

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For many years Broome Regional Prison has been ignored and neglected by the Department of Corrective Services (the Department) while the infrastructure became inadequate to the increasing number of Kimberley prisoners and antagonistic to basic humanity and decency. The inadequate holding capacity of Broome Prison has resulted in almost 70 per cent of the predominantly Aboriginal prisoners from the Kimberley being transported 'out of country' to southern prisons.<sup>1</sup> While a new prison is still years away from relieving overcrowding and the need for transportation, the charge of structural racism can still be levelled at the Department.

Following a death in custody at Broome Prison in 1996, the Coroner noted that 'it is most important, particularly for Aboriginal prisoners, for such a prison to be available in the Kimberley. Aboriginal prisoners sent from the Kimberley region to Perth are separated from families, friends and familiar environment which can be a distressing experience.'<sup>2</sup>

In 2001<sup>3</sup> the Inspector reported that basic accommodation at the prison was well below acceptable national standards and that such conditions would not be tolerated if non-Aboriginal prisoners were the predominant groups. Attention was also drawn to the way that security was out of balance, in particular the inappropriate shackling or handcuffing of prisoners, and to the large number of Kimberley prisoners being sent 'out of country' to Southern prisons.

The Inspector noted that staff at Broome had talked of an 'amnesia cloud'<sup>4</sup> that enveloped Head Office personnel once they flew back to Perth and how nothing ever happened to enhance the prison, regardless of the many promises that had been made. He also noted that this 'amnesia cloud' suited everybody as there was no pressure for local management practices to change.

Eight days after the publication of the Inspection Report, the then Justice Minister announced the construction of a new \$50 million prison for the Kimberley. A newspaper article<sup>5</sup> describing Broome prison as 'WA's worst jail', reported that the Minister said it was 'chronically overcrowded and needed replacing' and that the women gaoled there were 'the worst treated prisoners in WA'.

In 2005 the prison was re-inspected and the Inspector noted<sup>6</sup> the continuing sub-standard conditions at the prison and observed that although prisoners had made many complaints to Inspections staff, they were reluctant to formally complain about their concerns. 'When prisoners were asked whether they had requests for assistance or complaints, we were frequently told that the response of prison officers was 'Go away', 'It's not my job', 'Bugger off' and worse.' It was further observed that 'the threat or fear of being 'shanghaied' to

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1 As at 30<sup>th</sup> September 2008, there were a total of 410 prisoners whose last known address was in the Kimberley Division, of these only 126 were held in Kimberley custodial facilities leaving 284 in other prisons elsewhere. (Department of Corrective Services unpublished research)

2 Coroner, Inquisition into the death of Alan Bangmoro, 20<sup>th</sup> June 1997, 13.

3 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 6 (June 2001) 4.

4 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 27 (March 2005) iii.

5 Anne Burns, '\$50m to replace WA's worst jail' *The West Australian* (7<sup>th</sup> July 2001).

6 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 27 (March 2005) 57.

higher security or less desirable prisons appears to be a common factor inhibiting prisoner requests and complaints throughout the entire prison system.’

Nonetheless, this report also acknowledged the positives in the prison, noting particularly the ‘ongoing presence in the local community of appropriate prisoners performing community service... a low key and positive reminder of the reality and function of prisons’

In March 2007, Broome Prison was again inspected and once again poor conditions and chronic overcrowding were found. The previous plans for a new prison had by this time fallen away, but again, shortly after this inspection the then Minister for Corrective Services again announced that a new prison would be built, this time at Derby. At that time the chronic overcrowding of the prison was being exacerbated by an acute shortage of staff. This was having a particularly detrimental impact on both the prison’s ability to deliver a full range of services and on the treatment of prisoners. Despite these ongoing problems, a number of significant improvements to some services and other examples of good practice were also evident, and as a consequence the inspection report<sup>7</sup> was cautiously optimistic that (given the Department’s acceptance of the recommendations contained in Report 46) with further strong assistance, support and close monitoring the prison could improve.

However, after the publication of Report 46 there were growing indications that gave the Inspector concern that the Department had again turned its gaze elsewhere and the necessary support and monitoring were not being put into place and that the treatment of prisoners was deteriorating. For example, through contact with prisoners and through the reports of Independent Visitors, it was clear that the racist and bullying treatment of prisoners had increased. Consequently, this Office conducted a short-notice follow-up inspection of Broome Prison in May 2008 which confirmed the lack of progress against the recommendations of Report 46.

The findings of the short follow-up inspection are detailed in this Report; however it must be acknowledged that since May this year there has been some progress on the matters that are the focus of the recommendations of the Report. The Department has made an attempt to bolster the management team at Broome through the appointment of an Assistant Superintendent Operations to take carriage of the performance assessment process prior to the pending appointment of a Principal Officer. This is a positive first step toward reinvigorating the management group as called for in this Report. Further, and more convincingly, staffing levels of the prison at the time of writing have been significantly improved both for custodial and non-custodial staff, to the extent that current custodial staffing levels fully meet the needs of the prison, and a number of new administrative/management positions have been approved for Broome.

These developments, along with the almost completed infrastructure up-grade of the prison, are to be applauded. However, they need to be supplemented and maintained before this Office will be persuaded that the Department’s long-standing neglect of Broome Prison has ended. Broome Prison remains the only prison in the WA prison system that has not

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7 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 46 (March 2007).

improved in the eight years this Office has been operational. We remain concerned that notwithstanding the up-grade of the prison, accommodation conditions for the bulk of the almost exclusively Aboriginal prisoners are still entirely unacceptable. Further, basic decency and human rights will continue to be at risk at the prison without sustained culture change, continuous management oversight from the Department, and strong positive leadership within the prison.

The decrepit state of the main accommodation section of Broome Prison and the number of Kimberley prisoners held out of country highlights the inescapable fact that the need for a second prison in the Kimberley is urgent and long-overdue. The decision to build a second Kimberley prison at Derby that was announced by the previous Government requires urgent consideration. In broad terms, it is supported by this Office.

The longstanding issues at Broome also serve to reinforce the view of this Office that the Department of Corrective Services remains poorly focused on the issues of Aboriginal imprisonment, despite their rhetoric to the contrary and despite isolated attempts to provide culturally appropriate conditions of imprisonment at prisons such as Casuarina. The Department's Aboriginal policy and service delivery appears disconnected and marginalised. The Aboriginal Visitors Scheme is neglected, and there is an almost complete absence of culturally appropriate programs that address offending behaviour for Aboriginal prisoners. One consequence of this is the higher rate of recidivism (rate of return to custody or community corrections) among Aboriginal prisoners, which incidentally, is highest at Broome Prison.

This Office will develop an *Issues Paper* on Aboriginal imprisonment and if warranted may extend this work with a *Thematic Review* of Aboriginal imprisonment.

Barry Cram  
Acting Inspector of Custodial Services  
29 October 2008



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# Chapter 1

## THE CIRCUMSTANCES NECESSITATING A ‘SHORT FOLLOW-UP INSPECTION’

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### THE LAST INSPECTION

- 1.1 Broome Regional Prison was last inspected in March 2007.<sup>1</sup> At that time the central finding was that chronic overcrowding of the prison was being exacerbated by an acute shortage of staff. This was having a detrimental impact on both the prison’s ability to deliver a full range of services and on the treatment of prisoners. This was being displayed in a number of ways:
- Staffing shortfalls were being met by high and unsustainable levels of overtime. This carried significant Occupational Health and Safety risks through unsafe work practices and staff burnout.
  - The resultant pressure on staff led to the prioritisation of security-based activities to the detriment of staff interaction with prisoners and prisoner services.
  - Prisoners were recognising the staff disengagement and many reported that they were feeling unsafe as a consequence.
  - Complaints and grievances were being suppressed. Troublesome prisoners were being threatened with being transferred ‘out of country’, which was particularly disturbing to prisoners.
- 1.2 Despite these serious problems, a number of significant improvements to some services and other examples of good practice were also evident. For example:
- education was working particularly well;
  - around 15 prisoners were going out to work on worthwhile community projects each day; and
  - a Women’s Support Officer had been employed and was providing a range of new programs for women prisoners.
- 1.3 Consequently, the inspection report (Report 46) was cautiously optimistic, with the report’s recommendations stressing that in order to progress the prison required strong guidance, support and close monitoring. The Department’s response indicated that it supported all of the recommendations, implying that the Department would ensure that the prison received the right resources, support, and leadership to move ahead to tackle its deficits.

### INDICATIONS OF CONCERN

- 1.4 In line with standard Inspectorate practice, at the culmination of the inspection the Office commenced monitoring the progress of the prison. This occurred through: regular liaison visits by inspectorate staff; routine contact with the Superintendent; the receiving of prisoner letters; agency contacts; and through the reports of the Independent Visitors to the prison. Quite soon after the inspection it was evident that the prison was struggling to progress many of the issues identified in Report 46 and was failing to make real progress on that report’s recommendations.

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1 Office of the Inspector of Custodial Services (OICS), *Report of an Announced Inspection of Broome Regional Prison*, Report No. 46 (October 2007).

## THE CIRCUMSTANCES NECESSITATING A ‘SHORT FOLLOW-UP INSPECTION’

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- 1.5 For example, through contact by prisoners and through the reports of the Independent Visitors, it was clear that the racist and bullying treatment of prisoners identified in Report 46 was continuing. This was further supported by complaints made to the Office by Broome staff regarding the treatment of prisoners by some their peers.
- 1.6 When considering the progress of the prison it was particularly evident that leadership issues (central to the progress of the prison) were not being addressed. This was highlighted by the absence of the Superintendent for extended periods – 22 of 62 weeks – and having four different individuals in the role of superintendent over this period. In addition, a long overdue, major upgrade to the prison buildings and perimeter fence commenced in late 2007. This work and the associated contractors moving in and out of the prison on a daily basis placed a significant strain on the operation of the prison. At the same time the prison was operating well below its full quota of staff. This was placing a significant strain on staff and their ability to ensure the security of the prison.
- 1.7 In line with this concern, during a routine liaison visit in mid December 2007, staff from this Office noted that the searching of prisoners and cells had not increased in response to the increased risk posed by the upgrade. The risks posed were further exacerbated by an absence of tool checks to record the large quantities of tools going in and out of the site, or controls in place to ensure that tools, electrical items and equipment were not routinely left unattended by workmen in the prison. The escape risk these practices posed were raised with the Superintendent and further added to warnings made in Report 46 as to the potential for escape from the prison’s secure unit. Assurances were made to deal with these issues, but unfortunately five prisoners escaped just over two weeks later, bringing to ten the total escapees from Broome Regional Prison in the 14 months since the inspection.
- 1.8 As a result of what appeared to be a lack of progress and serious additional stressors for the prison, the Inspector raised a number of concerns with the Department’s then Deputy Commissioner Adult Custodial, who agreed to look more closely at the progress of Broome Regional Prison. As part of this, the Superintendent of Eastern Goldfields Regional Prison reviewed the prison and highlighted a number of issues,<sup>2</sup> almost all of which had been raised previously by this Office with the Department through Report 46 or as part of the Inspectorate’s liaison process. These included:
- A poorly managed building upgrade program, with building material and equipment threatening the operation and security of the prison.
  - Excessive overcrowding of prisoners into inadequate facilities.
  - A lack of training and professional development for staff.
  - A continuing lack of human and physical resources and funding.
  - The perception by some staff that senior management lacked a sufficient focus on the prison.

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2 Internal Departmental Memorandum from the then Superintendent of Eastern Goldfields Regional Prison, Mr Stevan Janosevic to the then Deputy Commissioner, Adult Custody, Mr Roger Holding dated 5 February 2008.

- 1.9 Despite repeated requests for an update on the prison the Department did not provide this Office with a copy of the above mentioned review or any other formal advice as to what actions the Department had taken regarding the state of the prison. On 1 February 2008 the Inspector formally placed his concerns before the Commissioner. Again receiving no response, the Inspector wrote on 3 April 2008<sup>3</sup> raising these concerns and advising that an unannounced short follow-up inspection of Broome Regional Prison would be carried out.
- 1.10 This short follow-up inspection focused on the progress the prison had made in regards to a relatively narrow range of acute issues previously identified in Report 46:
- bullying, racism, and the treatment of prisoners;
  - prisoner complaints;
  - the conditions and treatment of prisoners in maximum-security;
  - security and risk management; and
  - staffing.
- 1.11 In addition, due to the central role leadership and management plays in the performance of a prison, these were also included in this inspection. Further, a number of other sundry issues were identified while on-site and have been included in Chapter Three of this report.

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3 See appendix 3.



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# Chapter 2

## THE KEY ISSUES

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### BULLYING AND RACISM

2.1 At the last inspection this Office expressed strong concern over racism, bullying, cultural insensitivity and inappropriate behaviour towards Aboriginal prisoners. The inspection report highlighted specific objectionable behaviour as well as a number of problematic behaviours which were seen as the result of excessive workplace stress brought about through the prison's chronic staff shortages. Report 46 left no doubt that this was a serious issue and from that inspection, this Office expected comprehensive and immediate action at the local level – recommending all staff have regular access to personal and professional development activities that challenge intolerant or prejudicial views of Aboriginal prisoners – with support and oversights from the Department's head office.

2.2 Addressing this issue the Department's response stated

*Almost all staff have received cultural awareness training and grievance and anti bullying training during this financial year. Further cultural awareness training will occur in May/June 2008 ... Training for the non-leave period May/June has been organised by the Business Manager and ... attempts are being made to find a suitable facilitator for further cultural awareness training.*

2.3 Evidence collected prior to this follow-up inspection indicated that cultural awareness training had indeed been conducted at the prison during May/June 2007. A total of 60 staff had participated in this training. During the follow-up inspection a number of staff, from throughout the prison, were questioned as to the effectiveness of the training. Their responses were unanimously negative, stating that the training delivered had little relevance or application within their custodial environment.

2.4 At its best, training does not change behaviour; it empowers or enables people to change. Actual change requires that an individual has or is provided with motivation to change, that behaviour is monitored and that constructive feedback is provided. The follow-up inspection showed that not only did staff consider the training to be of poor quality, none of these core elements for change had been enacted.

2.5 As a result, racist, prejudice and culturally insensitive behaviour continued. As stated previously, since the last inspection this Office has continued to receive complaints regarding racist treatment in this prison.<sup>4</sup> These complaints outlined a series of structural and actual racism issues in the prison. While this follow-up inspection did not intend to investigate any of these complaints specifically, numerous examples of racism and culturally inappropriate behaviour were directly observed during the short time the inspection team was on-site.

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4 Twenty-six separate prisoners signed their name to these letters of complaints.

### Inappropriate Threats to Prisoners

- 2.6 In Report 46 it was reported that prisoners were being threatened with being transferred to another prison if they stepped out of line. While the transfer of a prisoner due to behavioural non-compliance or for the reason of a security upgrade are perfectly legitimate management options, the evidence gathered indicates that transfers are frequently not being used for these purposes, and this was observed directly by the Inspection Team. The use of such threats to gain a compliant prisoner population is highly objectionable and the failure of management to end this practice borders on tacit approval of behaviour this Office considers to constitute ‘cruel inhuman and degrading punishment’.<sup>5</sup>

### Cultural Insensitivity and Racism

- 2.7 Culturally appropriate food and preparation practices are very important to Aboriginal prisoners, particularly the more traditional prisoners typically found in Broome Regional Prison. Inexplicably, at this follow-up inspection the provision of traditional food was non-existent. Prisoners stated that they could not remember the last time any kind of traditional food had been made available. Kitchen staff confirmed this, and the non-Aboriginal kitchen workers spoken to were openly contemptuous of the notion of providing a more traditional diet. Despite repeatedly recommending that this issue be addressed and despite management’s repeated claims that it had been addressed, the situation in Broome remained wholly inadequate.
- 2.8 More broadly, prisoners complained that they were not given any access to officer assisted calls. Contacting family and ensuring that they are aware of your whereabouts is particularly important in regional prisons. Visitors often have to travel many days for visits and officer assisted calls enable prisoners who are to be transferred at short notice or who are in transit, to notify family. These prisoners, for various administrative reasons, typically do not have access to their phone account. In these circumstances it is routine and good practice for officers to facilitate a free telephone call for the prisoner. The prisoner’s view of a lack of access to officer assisted calls was supported through analysis of the Prisoner Telephone System records which showed that between October 2007 and May 2008, there was no documented evidence of a single officer-initiated telephone call having been made from Broome Regional Prison.<sup>6</sup>
- 2.9 In this regard, it needs to be emphasised that prisoners have consistently reported that normally it is only a small group of staff that treated them poorly. At this follow-up inspection though, prisoners reported a growing proportion of officers who, while they would not label them racist, displayed racist or intolerant behaviour. Management at the prison has repeatedly told this Office that they know who these staff are, but without

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5 As defined by the UN Convention for the Prevention of Torture (ref).

6 The Department disputes the view taken by prisoners stating that the lack of evidence for officer assisted calls was due to poor compliance with recording procedure. Indeed, evidence of a small number of officers assisted calls, made on phones not linked to the Prisoner Telephone System, was found during a subsequent liaison visit. Unfortunately, the veracity of the Department’s claims could not be substantiated due to a lack of evidence.

## THE KEY ISSUES

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hard evidence they did not believe that they could successfully prosecute these Officers.<sup>7</sup> This Office rejects the notion that the only available course of action is to formally charge such staff. This is a performance issue that needs to be managed by managing staff not by charging officers.

- 2.10 The failure of the prison's substantive management to address racism in this prison was brought into stark focus by the actions of the superintendent acting during the follow-up inspection period. The Inspection Team was provided with minutes of recent senior management meetings which made it clear that racist behaviour would not be tolerated.<sup>8</sup> The Inspection Team was advised that in addition, a further two Grievance Officers had been appointed and were being trained, and that the staff support program would be examined with a view to assist and support the anti-bullying and racism initiatives.
- 2.11 The Acting Superintendent also sent out a weekly e-mail report to all Broome Prison staff, commencing in his first week, in which he included a closing paragraph directing that verbal interaction with prisoners must improve, bullying and racism would not be tolerated and for staff to be proactive in these matters. The Inspection Team observed that the Department's poster 'Stamp out Bullying' was being prominently displayed on the notice board in the staff dining room and in many places around the prison. When this was discussed with the Acting Superintendent he acknowledged that he had personally put them up around the prison. However, a wide range of staff at the prison told us that while the current Acting Superintendent had indeed repeatedly made it clear that bullying and racist behaviour would not be tolerated, that the (few) officers who were involved in these behaviours were simply awaiting for his acting term to expire. Therefore, should the substantive management give this issue the same low level of support it had previously, this Office seriously doubts the longevity of any attempts to manage racism or bullying within this prison.

## PRISONER COMPLAINTS

- 2.12 This Office has repeatedly recommended a more culturally appropriate complaints system be developed Department-wide implementation. At Broome Regional Prison, both the second and third announced inspections<sup>9</sup> reported that the process was inappropriate and ineffective for the predominantly Aboriginal prisoner population. This process focused on complaints as a negative rather than as an opportunity for performance enhancement. This lead to:

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7 This Office has been repeated informed that the collection of formal evidence is hampered as prisoners and staff are caught in a difficult situation in which they believe if they report and name an officer for racist or inappropriate behaviour, that nothing will happen except they themselves may be disadvantaged.

8 Executive Minutes Broome Regional Prison 15/04/08 Item 2.

9 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 46 (October 2007). recommendation 30; OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 46 (October 2007) recommendation 11.

## THE KEY ISSUES

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- officer avoidance of complaints;
- the charging of complainants;
- inadequate recording and monitoring of complaints;
- poor or no feedback to prisoners on the progress or outcome of a complaint; and
- poor compliance with collection processes resulting in lost complaints and breaches of confidential mail.

2.13 The process also unnecessarily restrained or hindered complaints through:

- requiring prisoners to request complaints forms from the very officers they intend to complain about; and
- requiring, as a necessity, a written complaint.

2.14 The Department's response to this Office's recommendation pointed to its newly established complaints management system known as ACCESS. The ACCESS system tracks complaints as they progress through the Department and enables prisoners to telephone a complaints officer to discuss their complaint. The system though still requires the prisoner to put their complaint in writing prior to any action being taken. This is not appropriate for prisoners with literacy problems and whose entire system for communicating is embedded in oral traditions. The Department also established an Aboriginal complaints officer position as one of its complaints officers. However, as this officer is only one among a number of complaints officers, an Aboriginal prisoner ringing the centre cannot be assured of actually speaking to this Aboriginal officer. From a systems level, ACCESS is good at tracking complaints once made but as a response to the need for a culturally appropriate complaints system, it is wholly inadequate. ACCESS does not address the culture of complaints avoidance, the loss of complaints prior to them being lodged, not does it address any of the barriers (cultural or otherwise) prisoners experience when wanting to make a complaint.

2.15 At the prison level, the follow-up inspection found that little had changed in regards to complaints. In well functioning prisons there is good interaction between staff and prisoners. Unit meetings are held and the superintendent and the senior management team regularly invite prisoners to air any concerns they may have. Prisoners have confidence that issues raised by them would be addressed and there are sound and transparent processes to ensure that confidential mail is dealt with appropriately.

2.16 An effective local complaints resolution process is dependent on good prisoner/staff relations. The relations between staff and prisoners at Broome Regional Prison were not sufficiently robust to support a system whereby prisoners could verbalise their grievances to officers and believe that they would act to address them. At this follow-up inspection (and as seen during the previous inspection<sup>10</sup>), many Broome officers were actively dissuading contact and minimising their interactions with prisoners. Confidential mail envelopes were being lost. Prisoners were still required to request complaints forms from officers and management were largely absent from within the prison. Essentially this is a leadership issue. Other, better functioning prisons see complaints and grievances as important to their

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10 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 46 (October 2007) 12.

good functioning and there are robust processes in place to promote and ensure the integrity of the system – at Broome it did not appear that the Superintendent considered prisoners' confidence in the system a priority and no progress had been made in this regard.

#### THE CONDITIONS AND TREATMENT OF PRISONERS IN THE SECURE UNIT

2.17 The last inspection raised a number of security concerns regarding the prison's secure unit:

- the lack of an effective barrier to tools or contraband entering the unit; and
- staff not regularly entering the unit, impacting on dynamic and visual security.<sup>11</sup>

This presented an unacceptable risk of escape. This was pointed out to the Department with an expectation that these issues would be dealt with.

2.18 Further, from a human rights perspective, the regimes and conditions in the secure unit were abusive, amounting to, by far the worst environment for the accommodation of prisoners in the state. Factors contributing to this assessment included:

- services would not go into the unit for fear for staff safety;
- there was little to nothing for prisoners to do in the unit;
- there was frequent and acute overcrowding;
- the unit offered virtually no privacy for prisoners; and
- as officers and the Prisoner Support Officer (PSO) did not go into the unit there were no unit meetings or mechanisms for prisoners to raise issues or to attempt to improve their conditions.

As an abusive environment, this Office expected the Department to act quickly and decisively. The Inspectorate also expected that any action to deal with security issues would take their impact on human rights into account.

2.19 At this follow-up inspection it was evident that the Department was attempting to address some of the security issues in this unit with a comprehensive refurbishment of the unit. Security mesh screening had been added as an external barrier to the rest of the (minimum-security) prison. The intention of this mesh was to prevent the movement of contraband (particularly tools) into the unit. While it appeared that this mesh would, once complete, achieve this end, in the meantime prisoners continued to be able to pass contraband into the unit from multiple points without any intervention.

2.20 Even more concerning to this Office, there was still an almost complete disengagement of staff from the prisoners in this unit, with Officers seldom entering the unit, preferring to pass food, mail, medication through the bars. It also appeared that the Prisoner Support Officer and the Aboriginal Visitor did not go into the unit and that anyone wishing to enter the unit was actively dissuaded to do so, due to the perceived risks posed by the prisoners and the difficulty that staff would have extracting someone should difficulties arise. Peer support prisoners were also barred from entering the unit. The lack of adequate supervision

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11 For a discussion of the various component of prison security see Chapter 3 of OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 6 (June 2001).

## THE KEY ISSUES

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made prisoners within the unit concerned about their own safety and was a particular risk for first night prisoners who were routinely placed in multi-occupancy cells in this unit. Unit meetings were not being held and no evidence of regular cell checks or the supervision of cleaners was evident. As a result (and as reported in Report 46) common areas were dirty and unhygienic.

- 2.21 From a human rights perspective little appears to have changed, though prisoners in the unit remarked that the screening gave them some much needed privacy. The screens also reduced light and air movement in the unit which management were attempting to overcome through the addition of large fans.<sup>12</sup> Cells were still grossly overcrowded much of the time and services were still noticeably absent from the unit.
- 2.22 Not surprisingly then, when asked about the worst aspect of imprisonment in the unit, most prisoners pointed to their isolation from other prisoners and from staff, which resulted in boredom, stress and increased tension in the unit. In line with a recommendation from Report 46 some unit based recreational options had been made available to prisoners, but as secure prisoners were not allowed to exercise outside the unit (for fear they might escape) these were still very limited.
- 2.23 While it is important to note that the Department is refurbishing the unit and has made an effort to address some of the issues previously raised, these efforts have been inconsistently applied, poorly planned and have lacked monitoring and direction by both the Superintendent and the Department. Although the Department has argued that some of these issues would likely be addressed once the upgrade of the unit was completed, there did not appear to be any gradual movement towards changing the unit's regime or staff attitudes which would lead this Office to believe that meaningful rather than cosmetic change would eventuate.

## RISK MANAGEMENT

- 2.24 Broome Regional Prison is predominantly a minimum-security prison and like all prisons must attempt to match the risks posed by the prisoner group with the level of security or resources required to realistically mitigate that risk. At this follow-up inspection the Inspection Team found numerous examples of staff over or under estimating the level of risk, such that their management of prisoners could not be considered risk based.
- 2.25 Where staff over estimate the level of risk, this leads to the over application of security and excessive restrictions on the prisoner group. This tends to result in staff disengaging from prisoners, in unnecessary difficulties for prisoners and in the over use of scarce resources. As discussed earlier, a clear example of this was staff's inordinate fear of entering the secure unit and the impact that had on the services and conditions of prisoners in that unit.
- 2.26 In another example, many officers spoke of their significant concern over contraband and drugs entering the prison. When this was probed, it was clear that officers were not concerned over the risk of escape or that prisoners may access weapons, but rather that

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12 It should be noted that all cells in the secure unit are air-conditioned.

the prisoner group may become more difficult to manage as a result of being under the influence of a drug. In exploring this high level of concern, it was certainly clear that it would have been relatively easy to bring drugs into the prison through any number of means. Having said that, the level of drug use detected in this prison was, at the time of the follow-up inspection and historically, quite low. Given the low prevalence of drug detection in the prison, it was unclear what was driving this significant concern.

- 2.27 In considering how to mitigate this risk, the strategies offered by management appeared focused almost exclusively on drugs entering the prison through visits. Therefore management were advocating the tightening up on the number of visitors, the length of visits and the booking system. For secure prisoners this meant that their visits were already heavily scrutinised. The levels of scrutiny applied to secure visits during the follow-up inspection did not grant the prisoner any level of privacy, with prisoners reporting that they regularly had to whisper their conversations out of the embarrassment of having officers overhear them. From a risk perspective this approach is not sensible. If staff were so concerned that they have to so closely monitor a visit in a secured area, then the prisoner should have been given a non contact visit. The regularity at which this appears to occur is disrespectful and offensive to both prisoners and their visitors.
- 2.28 In the Inspectorate's view, this focus on visits as a means to reduce drugs is poorly targeted and disproportionate to the identified risk. Similar and possibly better results could be generated by better supervision of minimum-security visits, consistent and regular cell searches and better overall intelligence information through interaction with the prisoner group. Should the identified risk level increase, a secondary option would then be to search prisoners post visit and after other outside activities. These options take time and effort and while it is acknowledged that the solutions offered by officers and management were minimally resource intensive, the visits process at Broome has always been identified as one of the best aspects of the prison's functioning and should not be unnecessarily disturbed.
- 2.29 Another example of where risk was not being well managed related to the movement of secure prisoners (those rated medium- or maximum-security) within the prison. Broome Regional Prison is the only prison in the state that requires secure prisoners to move around within a minimum-security barrier. As secure prisoners pose a greater risk of escape than those rated minimum-security, this presents a tangible risk that requires careful management. Indeed Broome Regional Prison has experienced a small number of escapes of secure prisoners from outside their unit and at least historically, the external barrier fence has not presented a secure barrier.
- 2.30 A new boundary fence (constructed to withstand cyclonic conditions and consequently particularly robust) has been under construction, theoretically upgrading the external barrier to a secure standard. The use of razor wire or tubing has generally been minimised through cranking the upper section of the fence inward. Unfortunately, a prominent section of the fence near the front gate and canteen area is too close to the internal buildings and consequently razor wire has been added around the women's section and to all abutting buildings. This compounds the visual impact of substantial security fence and sends a

distorted message to the community, staff and prisoners about the risk level of prisoners in the prison. The fence's gate had been designed to be manually locked and unlocked. This added to the general workload of staff and had implications for day and night-time manning levels. More importantly, there was no sally port on the current plans and none anticipated. This meant that every time there was a movement through the gate, despite the new fence, the prison could still be considered unsecured.

- 2.31 Therefore, historically and in all likelihood into the future there has been a risk that a secure prisoner in moving the typically twenty metres from their unit to some other area within the prison could affect an escape. In managing this risk, management decided that all secure prisoners were to be hand cuffed and escorted by three officers when moving about the prison. This was an increase of one escort officer since the last inspection and indeed until 1996 secure prisoners had been moved within the prison under a single officer escort and without restraints. In addition, an airlock gate system has been added to the section of the prison referred to as the Bullpen, where secure prisoners have their visits. Also, and as mentioned earlier, due to the perceived escape risk and the limited options presented for managing that risk, there are no recreation options for secure prisoners outside of their unit.
- 2.32 From a risk management perspective this presents a huge drain upon staffing resources and appears out of proportion to the risks posed. It assumes that all secure prisoners are of high risk of escape, have the capacity and the drive to break out of hand cuffs, overpower or evade three officers and then scale a secure fence or somehow slip unnoticed through an unlocked prison gate. This is clearly erroneous for most (but not all) prisoners. The process is not based on an individual assessment of risk, and is highly labour intensive. Further, given the historical role shackles and cuffs have played in the subjugation of Aboriginal people in the Kimberley, and the shame caused to prisoners through wearing them, their ongoing blanket use constitutes abusive behaviour.
- 2.33 Such risks could be better managed by the use of dynamic security, use of individual assessments of risk, better communication and control of movement through gates to ensure that they are not needlessly open during periods of prisoner movement, and rather than using three officers to escort one prisoner the better positioning of officers to intercept a prisoner should they attempt to flee. If these measures were adopted there should be no reason that, for example, hand cuffing of most prisoners could cease and that secure prisoners could recreate for an hour a day on the prison's basketball court. Certainly all procedures should be reviewed once the fence and gate works are completed.
- 2.34 In as much as staff appeared to overestimate the risk posed by secure prisoners they appear to ignore the risks posed by the minimum-security group. The main areas of concern were:
- This Office has often praised staff in regional prisons for their sensible use of local knowledge in the appropriate management of prisoners. In Broome Regional Prison the combination of the disengagement of officers, a growing emphasis on barrier management and the loss of a large percentage of officers with local knowledge hindered the potential of staff to accurately apply local knowledge. This meant that officers had limited knowledge of where a particular prisoner was at any given time,

## THE KEY ISSUES

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how that prisoner was feeling or what transient risks they posed. All were simply assessed to pose no or very little risk.

- Seriously deficient supervision of external minimum-security visits.
- Highly infrequent searching of prisoners returning to the prison from visits, education and external activity.
- First night arrangements where by a potentially vulnerable prisoner was placed into the secure unit with only limited supervision.

2.35 In summation, both the over and the under estimation of risk in this prison have been raised with both the Superintendent and the Department in the past, with little apparent impact.

### STAFFING

2.36 Report 46 expressed concern that the shortage of staff was unsustainable and had created demand for excessive overtime. Officer shortages leading to unfilled positions and staff stress had already at the time of the last inspection resulted in a lack of interaction with prisoners, and the report warned if left unchecked risked staff burn-out. At the follow-up inspection staffing problems had been further exacerbated by the requirement to have three officers escort hand cuffed secure prisoners. By occupying up to 40 per cent of the custodial officers on a shift in this task, it fundamentally distorted the functioning of the prison and contributed to the lack of interaction between officers and prisoners.

2.37 Updated information about the staffing position from the prison's Business Manager showed that aside from two seconded officers, who were filling the positions of the Superintendent and the Assistant Superintendent, an additional officer had been seconded from Albany Regional Prison to the newly created Security Manager Position and two vacant Senior Officer positions had been filled by officers seconded from elsewhere. These additional officers were providing some real relief to the uniformed staff complement. However, the ongoing situation was still uncertain. Even with these additional staff, during the follow-up inspection period the prison was running an average of 22 prison officer shifts short per week, or an average of three officers down each day. This level of overtime may be sustainable in a large prison, but was well past its sustainability at a smaller facility such as Broome. Further, in order to cope with the level of disruption and additional workload caused by the building activities it could be argued that the prison required additional staff over and above its standard allocation.

2.38 This Office has been advised that a revised staffing schedule for the prison (reconfigured for the building upgrade) had yet to be approved but it appears that the prison will be allocated an additional 12 custodial officers. However, given retirements, transfers and other factors, it is by no means clear that this revised complement will fully relieve the prison of the need to run the high-level of overtime currently necessary.

2.39 In the long-term, regardless of what level of staffing is approved, Broome's acute housing shortage will undoubtedly have a dampening effect on the prison's ability to attract staff to the town. Demonstrating this, despite being chronically under staffed, the prison has been unable to find accommodation for five officers waiting transfer to the prison. Finding

accommodation for another 12 may be beyond the prison's capabilities, at least in the short-term.

- 2.40 These staffing issues were raised in the last inspection report. The lack of substantive action to overcome the staffing deficit and its increasingly evident impact on staff makes action in this area even more pressing. The Department should give strong consideration to encouraging and enabling experienced staff to transfer to the prison in a similar manner to the way Roebourne Regional Prison has successfully seconded staff over the past year. To enable this to be effective it must also address the accommodation issues.

#### PRISON MANAGEMENT AND LEADERSHIP

- 2.41 In past reports this Office has attempted to accentuate the positives of Broome Regional Prison rather than dwell on the obvious problems of running a custodial service in a remote, aged and overcrowded facility. Indeed, in the past this Office has commented that Broome Prison has in some ways been an 'unexpected success'.<sup>13</sup> In the last inspection report for Broome this success was tied to specific characteristics of the prison – the commitment of staff, the cooperation of the prisoner group and the good relationships between staff and prisoners, the introduction of a structured day and improved business practices.<sup>14</sup> That is not to say that this Office has shied away from identifying serious problems. Rather it has been a matter of emphasising the potential of the prison.
- 2.42 Given this potential, this Office fully expected that local management would – driven by sound leadership, clear direction and communication – take a firm stride forward operationally. At the Head Office level this Office expected the Department to take consideration of the inherent and identified difficulties at this prison and ensure that the prison had the support and monitoring necessary for it to progress. This is not what this follow-up inspection found, with multiple failures in leadership at the operational level both locally and in Head Office.
- 2.43 At the local level, the management of the prison was not assisted by the absence of the substantive superintendent for long periods, particularly as the prison was undergoing a major upgrade. While each of the acting superintendents brought skills and attributes to their acting roles, the volume of actors was itself unsettling. This is in no way a criticism of these acting superintendents. Indeed, many staff expressed their concern that the reforms started under them would simply drift backwards once the substantive management returned to the prison.
- 2.44 It was particularly jarring that during this period immediately following an inspection and during a period of major capital works, that change management had been allowed to effectively disappear from the prison until resurrected by the most recent acting superintendent. Minutes of the prison's change management meetings reviewed during the follow-up inspection showed a long abeyance in the meetings until 'kick started' again in February 2008. Clearly missing from these meetings was the external management

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13 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 27 (March 2005) 2.

14 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 46 (October 2007) 4.

expertise that had been provided by the Department change management consultant. That consultancy had been addressing many of the key issues that still face the prison but had ceased due to the Department removing funding for this activity. Such a consultancy was essential to helping this prison move through and beyond their current difficulties. Yet despite the Department confirming its 'committed to the change management program at the Broome Regional Prison' and having 'prepared a request for tender for its management'<sup>15</sup> specific funding was not received and has not been made available from elsewhere in the Department's budget.

- 2.45 Most critically though, was that despite the last inspection reporting that the prison was ready and able to move forward and despite improvements in its business processes, there had been a fundamental lack of progress against past recommendations or effective efforts to address the myriad of operational issues identified across three inspection reports. Indeed this follow-up inspection found that what little operational progress had been achieved was mostly due to the efforts of the Acting Superintendent of the time. While it was encouraging that local leadership had begun to act, the fact that an acting superintendent could make such a distinct impression in such a short period of time is a monumental indictment.
- 2.46 This raises the question of what the Department was doing to keep itself adequately informed as to the progress of the prison. In exploring this, the Inspection Team asked for a copy of the Department's report<sup>16</sup> detailing their view of the prison's progress implementing recommendations from Report 46. The content of this report (received prior to the follow-up inspection) was misleading and at variance to that seen during this follow-up inspection. In some cases while actions had been identified as completed, no such evidence was found with the situations and issues giving rise to the recommendations generally persisting or being found to be even worse.
- 2.47 Where the Department did receive detailed information regarding the state of the prison – from three inspection reports, from the Superintendent Eastern Goldfields Regional Prison and from its own Operational Compliance Review<sup>17</sup> – it was evident from this follow-up inspection that it had failed to act.
- 2.48 This Office is of the view that there has been a long-term dearth of leadership in regards to Broome Regional Prison. This has been demonstrated at both the local and at the departmental level. As a direct result, there has been a lack of progress addressing the intent and substance of previous inspection recommendations. More importantly it has led to the further deterioration of the conditions for prisoners and staff in the prison. As a result of the extent of inaction on core issues and the lack of leadership shown this Office has lost faith

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15 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report No. 46 (October 2007) 28.

16 Requested when the Commissioner was notified of the impending inspection.

17 Which stated that 'the prison's performance is less than acceptable and business improvement opportunities are necessary to elevate performance to the required level. Performance at this level indicates that, measured against standards employed by this review, current practices fail to mitigate the risk associated with categories such as searching and detection of contraband, emergency management, anti-bullying and prison intelligence. Failure of controls for key operational areas presents as a risk for a cumulative effect, impacting on the containment of prisoners and safety of staff'.

## THE KEY ISSUES

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in the ability of the Department to bring about change in this prison. Nothing short of a new beginning, with a reinvigorated management team and an injection of resources will prevent this prison from sliding further.

*Recommendation 1:*

*That a reinvigorated management group be appointed to the prison with a clear brief from the Department of the priorities to take the prison forward.*

The recommendation above should be read as in addition to the recommendations from Report 46, which still stand and against which the Department will undergo a full inspection in due course. An exception to this is in regards to recommendation three of Report 46 which relates to staffing issues. Due to the significant role overtime and staff stress were seen to have on the functioning of this prison, this recommendation is reframed.

*Recommendation 2:*

*That the Department take the necessary steps to ensure that the prison is adequately staffed without being reliant on high levels of overtime.*

# Chapter 3

## SUNDRY ISSUES

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### PEER SUPPORT

- 3.1 Peer support prisoners are a valuable resource within a prison. At the last inspection peer support was severely under done, leading to a recommendation to increase their role and scope of activity within this prison.<sup>18</sup> At this follow-up inspection it was found that there was good prisoner representation on the peer support team, including female prisoners. The peer support team reported that they had regular meetings which the Prisoner Support Officer attended, and that they met with prison management at least once a month. The peer support presence in reception had increased with both prisoners (one male and one female) who worked in the reception facility peer support team members. Their main duties were however still predominately reception related duties rather than peer support orientated. While they did assist prisoners in the orientation process, this was not part of a formal orientation system. Nevertheless, the presence of these peer support prisoners in reception was a positive development which provided new (and/or returning) prisoners with the opportunity to at least identify two individuals who they could approach for advice or help in settling into prison life outside of the chaotic reception facility.
- 3.2 A disappointing aspect of the way the peer support system at Broome Regional Prison was managed was the lack of confidence officers had in the system. In being allowed to disengage from the prisoner group this appears to have also included the peer support prisoners. The resultant lack of use of the peer support prisoners was a missed opportunity.
- 3.3 As the peer support prisoners tended to be from the same cultural and language group as the prisoner population they knew most prisoners personally and were capable of understanding their issues well. This would have made them invaluable, for example, in settling an agitated prisoner. The use of peer support prisoners is a sensible approach at any time, but appears particularly sensible given the stress on officers and the recent turn over of staff which has resulted in many officers with little local knowledge of the prisoner group.

### ABORIGINAL VISITOR SERVICE

- 3.4 In regards to the Aboriginal Visitor Services (AVS) Report 46 recommended that ‘the Department comprehensively review the services of the AVS at Broome Regional Prison and put into place practices and procedures that will enable prisoners’ issues to be recorded and addressed in a timely fashion’.<sup>19</sup> The Department at the time supported this recommendation, indicating that they would review the AVS service to ensure improvements to service delivery.
- 3.5 Shortly before this follow-up inspection, the Department provided an updated response to this recommendation whereby they asserted that the AVS management would be organising a meeting with Broome prison management and the Aboriginal visitor who attended the prison to discuss how the service could be improved. This meeting was scheduled for May 2008, some 11 months after the Department first received the recommendation. This appears to have been the full extent of the Department’s efforts to address this issue.

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18 OICS, *Report of an Announced Inspection of Broome Regional Prison*, Report 46 (October 2007) 9.

19 Ibid 31.

- 3.6 Not surprisingly then, the AVS process at Broome Regional Prison was still confused and was failing to deliver meaningful outcomes for prisoners. So ineffective was the AVS presence in this prison that the acting Assistant Superintendent was under the mistaken impression that the Aboriginal visitor had stopped attending the prison. Having an ineffective AVS is unacceptable and adds to the disadvantage experienced by prisoners in this prison. The Department is therefore urged to move more speedily and comprehensively in addressing the AVS deficiencies at Broome.

#### FEMALE PRISONERS

- 3.7 Report 46 recommended that the Department move to improve the conditions for female prisoners in Broome Regional Prison. In balance, the programs and activities available to the women had improved since the last inspection. These improvements had largely come about through the actions of the part-time Woman Support Officer (WSO). As the WSO also worked in the education centre at the prison by juggling her commitments she was able to dedicate a few hours each day to arranging programs and activities for the women. This effort on her part was commendable.
- 3.8 The WSO was supported in her role by prison management, both by the substantive management and the acting management team in place at the time of this follow-up inspection. During the previous inspection however, she was on occasions experiencing some resistance on the part of officers with regard to assisting her in facilitating activities and programs for the women. During the recent inspection, she commented that the cooperation from the officer group had improved dramatically.
- 3.9 The following is a list of the programs and activities that the WSO had arranged, or was in the process of arranging, to be delivered to the female prisoners at Broome Regional Prison:
- Anger management – facilitated by a psychologist from a local women’s refuge.
  - Attendance at a local Aboriginal corporation to participate in sewing activities – the WSO mentioned that the prison did not have any funds to contribute to materials for the women to practice their sewing skills so they were mending prisoner clothing during these sessions.
  - Alcoholics Anonymous – those women who wanted to attend were taken out of the prison to attend the meetings.
  - ‘Looking Back’ – a program delivered by Kimberley Population Health.
  - A child health nurse was scheduled to go into the prison to deliver a parenting course.
  - Sex education ‘refresher’ courses which the WSO ensures are updated every month – delivered by Kimberley Population Health.
  - Protective behaviour workshops delivered by the WSO which cover a range of issues relating to child abuse.

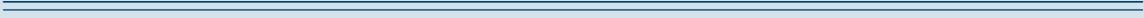
Given the part-time status of the WSO the range of programs and activities facilitated was remarkable.

## SUNDRY ISSUES

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- 3.10 Less positively, the physical environment for the female prisoners had deteriorated since the previous inspection, due wholly to the building works affecting the prison. The Inspectorate was reassured that the physical conditions for the women would be much improved once the refurbishment program had been completed. This refurbishment included a new mother and baby facility and a new programs room with DVD facilities. In the interim, the women's section at Broome Regional Prison remained impoverished. In addition, as the security of the Bullpen had been increased through the addition of locked gates, this removed the Bullpen toilet from their use. As the women were locked out of their unit for long periods, this had been the only toilet available for them inside the prison. The removal of this facility caused considerable shame to them women who now had to find an officer and ask permission to unlock their unit so that they could access a toilet.



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# Appendix 1

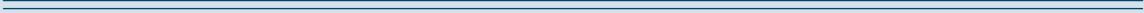
## THE DEPARTMENT'S UPDATED RESPONSE TO THE 2008 RECOMMENDATIONS

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<b>Recommendation</b>	<b>Acceptance Level/Risk Rating/Response</b>
<p><b>Administration and accountability of the department</b></p> <p>1. That a reinvigorated management group be appointed to the prison with a clear brief from the Department of the priorities to take the prison forward.</p>	<p><b>Not Supported (Low)</b></p> <p>This recommendation is not supported however it is agreed that Broome Regional Prison requires additional management assistance. To this end current management at Broome Regional Prison has been supported with additional senior staff members and a comprehensive action plan has been developed to take the prison forward with a focus on professional standards, training, security and operations, taking account of the general thrust of the OICS recommendations and the Department's own internal Directed Review in Broome Regional Prison. The action plan provides a corporate focus on enhancing the professionalism of Broome Regional Prison and its progress will be independently monitored through the Risk Management and Audit Committee each quarter.</p>
<p><b>Administration and accountability of the department</b></p> <p>2. That the Department take the necessary steps to ensure that the prison is adequately staffed without being reliant on high levels of overtime.</p>	<p><b>Supported (Low)</b></p> <p>The Department has taken steps to augment the existing management team and has approved an additional 12 FTE prison officers for the prison. In addition, enhanced recruitment and attraction strategies including local recruitment and a significant rental subsidy of 50% has been recently approved.</p> <p>The Department is aware of shortages in accommodation in Broome which can impact on the ability to implement some strategies to fully meet staffing levels. The Department continues to work towards addressing this issue. Staffing levels may fluctuate from time to time and the Department is supportive of the use of overtime to meet operational needs in order to maintain staff and community safety.</p>

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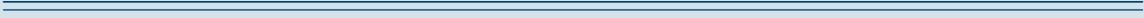
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## Appendix 2

### THE INSPECTION TEAM

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Mr Bill Cullen	Director, Strategy and Research
Mr John Acres	Principal Strategy and Research Officer
Ms Lauren Netto	Principal Research and Inspections Officer
Mr Pieter Holwerda	Research and Inspections Officer
Mr Joseph Wallam	Community Liaison Officer



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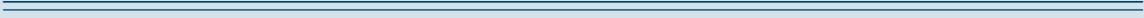
## Appendix 3

### KEY DATES

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Formal notification of inspection	3 April 2008
Start of on-site phase	26 May 2008
Completion of on-site phase	28 May 2008
Inspection exit debrief	28 May 2008
Draft Report sent to the Department of Corrective Services	4 September 2008
Draft Report returned by the Department of Corrective Services	29 October 2008
Declaration of Prepared Report	30 October 2008



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