



Justice
Inspector of
Custodial Services

Inspector of Custodial Services Annual Report 2014-15





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Produced by Inspector of Custodial Services

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(10/2015)

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The Inspector's role and functions

The Inspector of Custodial Services (ICS) assumed office on 1 October 2013 under the *Inspector of Custodial Services Act 2012* (the Act).

The purpose of the ICS is to provide independent scrutiny of the conditions, treatment and outcomes for adults and young people in custody and to promote excellence in staff professional practice.

The Inspector is independent of Corrective Services NSW (CSNSW) and Juvenile Justice NSW (JJNSW) and reports directly to NSW Parliament.

Under the provisions of the Act, the Inspector is required to inspect all correctional centres once every five years, and every juvenile justice centre once every three years.

The sites and assets included within the remit of the ICS include 34 correctional centres, two transitional centres, seven juvenile justice centres, approximately 47 court cell complexes, and two inmate and detainee transport fleets of 90 and 35 vehicles respectively.

The Inspector does not respond to individual complaints and these are referred to the appropriate agency. Individual issues are assessed, however, to determine if they relate to systemic failings.

Functions of the Inspector

The functions of the Inspector are set out in section 6 of the Act:

- (1) The principal functions of the Inspector are as follows:
 - (a) to inspect each custodial centre (other than juvenile justice centres and juvenile correctional centres) at least once every five years,
 - (b) to inspect each juvenile justice centre and juvenile correctional centre at least once every three years,
 - (c) to examine and review any custodial service at any time,
 - (d) to report to Parliament on each such inspection, examination or review,
 - (e) to report to Parliament on any particular issue or general matter relating to the functions of the Inspector if, in the Inspector's opinion, it is in the interest of any person or in the public interest to do so,
 - (f) to report to Parliament on any particular issue or general matter relating to the functions of the Inspector if requested to do so by the Minister,
 - (g) to include in any report such advice or recommendations as the Inspector thinks appropriate (including advice or recommendations relating to the efficiency, economy and proper administration of custodial centres and custodial services),
 - (h) to oversee Official Visitor programs conducted under the *Crimes (Administration of Sentences) Act 1999* and the *Children (Detention Centres) Act 1987*,
 - (i) to advise, train and assist Official Visitors in the exercise of the functions conferred or imposed on them under those Acts,
 - (j) such other functions as may be conferred or imposed on the Inspector under this or any other Act.
- (2) The functions of the Inspector may be exercised on the Inspector's own initiative, at the request of the Minister or in response to a reference by the Joint Committee or any public authority or public official.

Powers of the Inspector

The powers of the Inspector are set out in sections 7 and 8 of the Act:

The Inspector in the exercise of the Inspector's functions:

- (3) is entitled to full access to the records of any custodial centre (including health records) and may make copies of, or take extracts from, those records and may remove and retain those copies or extracts, and
- (4) may visit and examine any custodial centre at any time the Inspector thinks fit, and
- (5) may require custodial centre staff members to supply information or produce documents or other things relating to any matter, or any class or kind of matters, concerning a custodial centre's operations, and
- (6) may require custodial centre staff members to attend before the Inspector to answer questions or produce documents or other things relating to a custodial centre's operations, and
- (7) may refer matters relating to a custodial centre to other appropriate agencies for consideration or action, and
- (8) is entitled to be given access to persons in custody, detained or residing at any custodial centre for the purpose of communicating with them.

The Inspector of Custodial Services

Administration

Premises

The office is located on Level 13, 10 Spring Street Sydney. It is located within the Department of Justice offices.

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Staff

The establishment for staffing in the office is the Inspector, two Senior Inspection/Research Officers (SIROs), one Official Visitor Coordinator, and an Executive Assistant. At the end of the reporting period the office was fully staffed.

In June 2015 the office submitted a request to the Department of Justice for a new position, a Research Assistant, to be included in the structure. The legislative inspection mandate over this financial year has demonstrated the need for enhanced research support to enable greater efficiency of the office. The current operating budget can accommodate this additional support.

Budget

The ICS is an independent statutory office and the office is a cost centre within the Department of Justice. The budget for the year 2014-15 was \$1.9 million with actual costs of \$1.55 million.

Additional resources

As the number of staff available to give effect to the inspection mandate is limited, the ICS has sought to enhance its inspection planning by drawing on the 58 Official Visitors knowledge and expertise in the inspection planning process.

Expert consultants and secondments have also been engaged on particular inspection topics to enhance the capacity of the office to examine specialised operational areas.

The Principal Inspector of the Youth Detention Inspectorate, from the Queensland Department of Justice and Attorney-General assisted the Inspector over the period February – March 2015 with an inspection on two juvenile justice centres. This inspection examined how these centres supported young people to connect with families and communities whilst in custody.

Two aged care expert consultants accredited by the Aged Care Quality Agency were contracted to assist with an inspection into the management and care of aged inmates during May 2015.

The office has also hosted interns under a University of NSW Law program.

Liaison and communication

The ICS maintains communication and liaison with CSNSW and JJNSW, including regular meetings with the Commissioner and the Executive Director of JJNSW. ICS staff also liaise closely with appropriate officers in CSNSW and JJNSW for planning and implementing an inspection.

In December 2014 the ICS signed a Memorandum of Understanding with the NSW Ombudsman to establish the terms of liaison and communication between the two offices. The office has ongoing communication and consultation with the Ombudsman regarding complaint trends and areas of interest for inspection.

The ICS also frequently communicates and consults with the NSW Auditor General on audit and inspection themes and outcomes.

The ICS maintains a close relationship with similar inspection agencies in other states. These include the Inspector of Custodial services in Western Australia, the Office of Correctional Service Review in Victoria and the Office of the Chief Inspector, Queensland Corrective Services. These relationships foster the exchange of information, expertise, and knowledge of inspection.

Government Information (Public Access) Act 2009 (GIPA Act)

The GIPA Act came into force on 1 July 2010 and replaced the *Freedom of Information Act 1989*.

Section 20 of the Act requires all agencies to produce an agency information guide, outlining the structure and function of the agency, along with the kinds of information it holds and the manner in which the public may access it.

The ICS publishes all reports and responses to reports on its website. Inspection Standards and Manuals detailing the work of the office are also publicly available online.

Section 125 of the GIPA Act requires agencies to report on their obligations under the GIPA Act on an annual basis. As required by this section, the ICS advises that there were no applications made for access to information under the GIPA Act during the current reporting period.

Activities

2014-15 was the first full year of operation of the ICS.

The activities of the Inspector relate to the inspection of custodial facilities and services. In addition to inspections, the Inspector also conducts liaison visits to centres to establish the profile of the office and provide the opportunity for information sharing. These liaison visits are an essential part of developing positive stakeholder relations.

The Inspector attends relevant meetings and conferences to stay abreast of current and best practice in adult corrections and juvenile justice, and maintains a network of professionals, NGOs and academics for consultation on adult and juvenile custodial matters.

Inspections	
Parklea Correctional Centre	September 2014
Metropolitan Remand and Reception Centre	September 2014
Metropolitan Special Programs Centre 2	September 2014
Juniperina Juvenile Justice Centre	February 2015
Reiby Juvenile Justice Centre (March 2015)	March 2015
Long Bay Hospital (Aged Care and Rehabilitation Unit)	May 2015
Metropolitan Special Programs Centre 3	May 2015
Metropolitan Special Programs Centre 1 (Kevin Waller Unit)	May 2015
Silverwater Women's Correctional Centre	May 2015

Liaison visits	
Parklea Correctional Centre	June 2014
Junee Correctional Centre	June 2014
Riverina Juvenile Justice Centre	June 2014
Compulsory Drug Treatment Centre	June 2014
Cessnock Correctional Centre	July 2014
Reiby Juvenile Justice Centre	July 2014
Metropolitan Special Programs Centre 3	July 2014
Lithgow Correctional Centre	July 2014
Bathurst Correctional Centre	August 2014
Oberon Correctional Centre	August 2014
Wellington Correctional Centre	November 2014
Brewarrina Correctional Centre	November 2014
Orana Juvenile Justice Centre	November 2014
Kariong Correctional Centre	December 2014
Frank Baxter Juvenile Justice Centre	February 2015
Kirkconnell Correctional Centre	March 2015

Liaison visits	
St Heliers Correctional Centre	April 2015
Grafton Correctional Centre	April 2015
Glen Innes Correctional Centre	April 2015
Tamworth Correctional Centre	April 2015
Acmena Juvenile Justice Centre	April 2015
Grafton Correctional Centre	June 2015
Silverwater Women's Correctional Centre	June 2015
Metropolitan Remand and Reception Centre	June 2015
Cobham Juvenile Justice Centre	June 2015

Court cells	
Wagga Wagga Court Cells	June 2014
Bathurst Court Cells	August 2014
Surry Hills Court Cells	August 2014
Penrith Court Cells	March 2015
Glebe Children's Courts Cells	March 2015
Parramatta Children's Courts Cells	March 2015
Grafton Court Cells	April 2015
Newcastle Court Cells	April 2015

Conferences	
Beyond Punishment – Muslim Experiences CSNSW	June 2014
National Drug & Alcohol Research Centre	September 2014
Bureau of Crime Statistics and Research	February 2015
Prisons 2015	March 2015

Liaison visits

Effective inspection requires mutual respect and understanding between the inspectors and those being inspected; the approach of the ICS is to “inspect with; not at”. Accordingly, it is important for the staff of CSNSW and JJNSW to be comfortable with the idea of independent custodial inspection and with the staff of the ICS. Equally, it is important for the inspection staff to have a detailed understanding of the custodial system and a familiarity with each centre within the system. Liaison visits are an integral part of developing good rapport between the Inspector's staff and staff at the correctional centres and juvenile justice centres.

There are approximately 47 court cell complexes (and linked court transport assets) across NSW which are included in the Inspector's remit. While the court cells are much smaller than correctional centres, they are widely dispersed, which makes the logistics of inspecting them all challenging.

Inspections

To respond to its legislative obligation and the resources available, a theme-based model of inspection has been developed which allows multiple centres to be included in a single theme based inspection. In addition to examining correctional centres, the Inspector will inspect and report on court cells.

The office consults with the relevant agency and stakeholders on the risk and relevance of inspection themes when prioritising inspection themes and centres for examination. A prospective inspection schedule is published on the ICS website.

Over the 2014-15 year, the Inspector completed two inspections on the following themes:

(1) Overcrowding in NSW

In July 2015 an inspection into the effects of the growth of the inmate population in NSW was initiated. The growth of the inmate population has not been matched with appropriate quantum and quality of beds, with attendant overcrowding and diminution of quality of life in NSW correctional centres.

This report, *Full House: The impact of overcrowding on the NSW correctional system*, was tabled in NSW Parliament on 20 April 2015.

(2) Family and community connections at juvenile centres

The Inspector's first juvenile justice inspection report examined the nature of family and community contacts with detainees and juvenile detention centres. This inspection examined a girls' centre and a boys' centre and sought to understand the way JJNSW facilitates communication between young people and their families and communities.

This report, entitled, *Making Connections: Providing family and community support to young people in custody*, was tabled in NSW Parliament on 24 May 2015.

Response to recommendations

In the inspection reports tabled during this reporting period, the Inspector made 64 recommendations: 44 of these were to CSNSW, 17 to JJNSW and nine to JH&FMHN. Some of the recommendations related to more than one agency. The response of each agency to these recommendations was received and has been published on the ICS website.

One of the key performance indicators of the ICS is the percentage of recommendations accepted by the agencies. The breakdown of the actual acceptance by each agency for 2014-15 reports is as follows

Agency	Total recs	Supported	Partially supported	Unsupported
CSNSW	44	52%	34%	14%
JH&FMHN	9	100%	–	–
JJNSW	17	59%	29%	12%

An annual monitoring and reporting cycle is currently being developed to monitor the progress made by each agency against the recommendations.

Other advice

In March 2015 the ICS visited Glebe and Parramatta Children's Courts. Following this the Inspector provided a submission to the Department of Justice which was critical of the current and proposed design and finish of these two facilities. The Inspector has urged this feedback to be incorporated into the infrastructure planning process.

Official Visitors

Official Visitors are community representatives appointed by the Minister for Corrections. The role of Official Visitors is to be independent observers of the custodial environment, and to report on the conditions in custodial facilities and the types of issues that are of concern to detainees, inmates and staff. They assess the treatment of detainees and inmates, and facilitate the resolution of enquiries and complaints raised by those held in custody.

Official Visitors visit their assigned centres approximately once a fortnight. While at the facility, Official Visitors record enquiries and complaints, and try to resolve them at the local level by speaking to staff. They also examine the facility and make a note of conditions.

In February 2014, the Office of the Inspector of Custodial Services took on responsibility for overseeing the Official Visitor Programs conducted in adult correctional centres and juvenile justice centres. These programs had been managed separately for many years by Corrective Services NSW and Juvenile Justice NSW respectively.

The appointment of Official Visitors is established in NSW legislation – the *Crimes (Administration of Sentences) Act 1999* for the adult correctional system, and the *Children (Detention Centres) Act 1987* for the juvenile justice system. A review of the Official Visitor Program was undertaken to identify areas of the program where improvements could be implemented, and to bring the previously separate programs into alignment as a single program as far as possible given the different environments.

As a result of the review report published in April 2015, a number of improvements were identified and implemented across the following areas of the program:

Recruitment and induction

The recruitment process began in March 2015 to appoint approximately 64 Official Visitors to correctional centres, cell complexes and juvenile justice facilities in NSW. An updated application package and a newly developed position description provided detailed information to potential applicants who will begin their two year appointment on 1 October 2015.

Reporting

Official Visitors are required to report to the relevant Minister and the Inspector of Custodial Services every six months. Official Visitors to adult correctional centres are also required to report to the Commissioner of Corrective Services on a quarterly basis. Changes have been made to the reporting templates to provide consistency in data collection. The separate reports to the Inspector of Custodial Services and the Minister for Corrections have been combined into one report. All reports will be submitted electronically from 1 October 2015.

Information Sharing

In early 2015 the Official Visitor Coordinator began a routine of weekly updates for both groups of Official Visitors. For the Corrective Services' Official Visitors, the daily broadcasts are scanned for relevant information, updates from the Commissioner are forwarded, and news items from the Corrective Services' intranet are provided, along with the previously provided executive instructions.

For the Juvenile Justice Official Visitors, the weekly electronic publication *Jigsaw* is sent to the Official Visitors, along with any executive instructions and other announcements.

Continuous improvement

The Official Visitor Program will be the subject of continuous improvement and review to keep pace with changes in the correctional centres and juvenile justice facilities. Official Visitors adapt and respond to changing environments in their role as independent observers.

Key observations from this period

During the first full year of operation, several observations have been made, which are outlined briefly below.

Governance

When the ICS was established in October 2013 it sat within the Department of Attorney General and Justice and for administrative and budget purposes. Following restructures, the ICS was integrated into the administrative and financial arrangements of the Department of Justice. This substantially enlarged department now includes Corrective Services NSW and Juvenile Justice NSW, the agencies covered by the legislative inspection mandate.

This is in contrast to other inspection and oversight bodies in NSW who sit within the Department of Premier and Cabinet for administrative purposes to ensure structural and financial independence from the agencies which they inspect.

The Inspector considers that the real and perceived independence of this office, which is critical to its credibility with stakeholders, and the intent of Parliament of NSW, is compromised by these governance arrangements.

Resources and statutory obligations

The previous year has clarified the three streams of work for the office: inspection of correctional and juvenile centres, monitoring the uptake of recommendations, and the Official Visitor program. While the Official Visitor program receives discrete funding, the first two streams are funded together. The office has not yet completed an inspection cycle which would include the monitoring of recommendations made in reports. This monitoring would involve site visits to centres in order to verify the reported progress against recommendations.

With the current staffing and budget resources, the office will be unlikely to meet its legislative obligations. This constraint will impinge on the ability of the ICS to measure the level of implementation of its recommendations.

Systemic themes

The major risk in the correctional system is the increasing number of inmates, leading to overcrowded gaols. Overcrowding in the system brings with it a range of further risks, including the declining quality of life in the custodial estate (for both inmates and staff); increased inmate tension and the risks of violence; reduced access to health services, constrained basic services and diminished access to programs needed to meet earliest release dates.

Reporting

The Inspector has developed a range of key performance indicators that may be used to assess the work of the office. These are set out below:

Indicator	2014-15
Number of liaison visits conducted	25
Number of centres inspected	9
Number of reports tabled	2
% of recommendations accepted (adult)	55%
% of recommendations accepted (juvenile)	59%

The data associated with each of these key performance indicators is reported in this Annual Report for the first time and will allow a benchmark for future work to be assessed against.

