

OICS Ref:

Chair
Standing Committee on Public Administration
Legislative Council Committee Office
Parliament House
4 Harvest Terrace
WEST PERTH WA 6005

Dear Madam Chair

QUESTIONS ON NOTICE

Please find attached a response to the questions placed on notice following the Office of the Inspector of Custodial Services appearance before the Standing Committee on 7 May 2018.

1. **Table a copy of the agreement that stated the Inspector's Office will not be denied systems access to Department of Justice data.**

Please find a copy of the agreed position with the Department of Justice at attachment 1. The commitment from the Department OF Justice is not contained within a letter as indicated at the hearing. However, it is contained within two emails from the department dated 12 and 13 December 2017 from the Chief Information Officer and A/Executive Director Corporate Services.

2. **Table a copy of the draft MOU with the Department of Justice.**

Please find a copy of the draft MOU with the Department of Justice at attachment 2.

3. **Any aspects of the legislation should be changed to enable us to be able to fulfil our duties and functions under the legislation.**

There are three aspects of the legislation that could be changed to enable the office better fulfil its role:

- Strengthen the provisions in Division 2 - Powers in the *Inspector of Custodial Services Act 2003* in relation to the obtaining of information from the Department of Justice. An excellent example exists within s22 of the *Inspector of Correctional Services Act 2017* from the Australian Capital Territory and is contained in attachment 3.
- Remove the embargo provision in section 35 of the Act prior to the tabling of inspection reports and reviews in Parliament. This unnecessarily delays the release of the reports by 32 days which diminished their value. There are extensive due process arrangements in place that render that embargo process unnecessary and no other accountable agency is so constrained. In addition, the Office's annual report is required to be lodged in Parliament 60 days after the end of the financial year to be tabled by 30 September, which is inconsistent with the 90 day requirement contained in the *Financial Management Act 2006*.

- Consideration should be given to extending the jurisdiction of the Inspector. Three possible areas are police lockups, community corrections, and prisoners who are in secure mental health facilities. It should be noted that any extension of the Inspector's jurisdiction would require additional resources.

4. When did we stop providing the report at the back end of the reports about implementation of the recommendations.

The scorecard assessment of implementation of recommendations from previous inspections was ceased following the release of Report No 113 relating to the 2017 Inspection of West Kimberley Regional Prison in October 2017.

5. Are staffing levels at the Broome prison still too low to manage the prison population.

Current staff consist of 63 staff plus medical staff of 5.

FTE	FTE Funding	Total Vacancy
Administration	9	3 Vacancy
Senior Officers	10	1 Vacant, 1 LWOP
Prison Officers	36	1 Vacant, 1 AWOL, 1 Suspended, 1 WWC
VSO	8	2 Vacant
Total	63	11

A staffing review was conducted in June 2017 and implemented in February 2018. This increased the staffing levels to those stated above. However, as with other prisons throughout the state, Broome have been effected by the limitations centrally placed on overtime, which has driven the introduction of a restrictive regime for all prisons. Small prisons (like Broome) need only have small numbers of staff book off or be on long term absence to cause significant operational impact. This has been felt so significantly at Broome that on occasion visits have been closed. This is a concerning impact on prisoners' human rights.

Broome's staff absences appear mainly due to sick leave, unscheduled leave, and management of purchased leave, none of which attracts staff replacement. Since staffing levels have increased there has been little time for this office to evaluate if the new allocation (when full) will fully service the needs of the prison and the prisoners.

6. Are work education programs and skills development courses still limited or non-existent at Broome?

The education building has been taken over as an Administration Office and no replacement education centre accommodation has been provided. There is no education and skills development courses available at Broome Regional Prison and none have been budgeted for in the future.

7. What is the situation with rehabilitation programs or voluntary programs offered at Broome?

The new contracts have been awarded, but as of 15 May 2018, the A/Superintendent had yet to be contacted by the new agencies to arrange commencement of service. Centacare and Anglicare were the successful contract proponents.

At the time of the Inspection Men's Outreach was still attending the prison. However, service ceased once the new contract was awarded. Both the A/ Superintendent Broome and the Superintendent West Kimberley Regional Prison stated that no programs will be delivered in Broome, and that WKRP will run any programs for the Kimberley.

8. Have the support services offered to prisoners due for release at Broome improved or not?

As stated above, the agencies which won the contract have not attended the prison to date. There has been some movement toward getting better service from Centre Link but this has yet to eventuate and will require the staff of Broome to assist as phone calls may take a lengthy time.

9. Report 112 made 17 recommendations in relation to Broome prison. Would we give the Committee any feedback on the implementation of any of those recommendations.

Recommendation 1: *Build a new prison in Broome or upgrade the current facility to a humane and decent standard.*

No plans for a new prison or other type of remand centre had been developed by the previous government, nor has there been any commitment under the new government. The Department did announce in October 2017 that \$2.7 million would be spent on upgrades at the prison.

The upgrade project did commence, however recently the original architects were dismissed and new ones engaged. Plans have been drawn up but work is yet to begin. We have been told of concerns that the resource allocation may not support the proposed plans, as preliminary checks of buildings are unearthing serious issues such as possible asbestos and white-ant infestations. Whilst the improvement expenditure is welcomed, the first proposed plan seen by the Office raises a number of questions: can it achieve a real improvement given the age and condition of the facility, and whether it will really achieve any increased longevity of the appropriateness of the prison?

Whilst recognising that the current financial environment restricts large capital expenditure, the fact remains a new prison or remand centre is desperately needed in the East Kimberley. The upgrades are unlikely to raise the real prison conditions to a decent humane standard. It does not appear that living conditions for the prisoners is going to improve greatly as most of the allotted monies will be used to improve areas such as the medical centre, reception and the kitchen. These are areas providing important prisoner services, but do not impact greatly on their living conditions.

Recommendation 2: *Develop and implement a sustainable and cost effective solution for managing East Kimberley prisoners.*

No known action taken.

Recommendation 3: *Improve conditions for male prisoners in the maximum-security unit.*

The proposed upgrades include an extension of the maximum section to provide a larger recreational area. This will cause different issues, however, as its proximity to the fence line may expose prisoners to the public, and is out of line of sight of the officers area making supervision difficult. The space is also ear marked for dual use as a visits area, which will present a new risk of escorting the visitors further into the prison and past the cell area.

Recommendation 4: *Fix the leaks, condensation, and mould in the administration buildings.*

The identified problems remain; however, they have been cleaned and repainted. Ongoing regular maintenance put in place.

Recommendation 5: *Create and fill a business Manager position at Broome.*

Has been developed and is currently with head office to be advertised.

Recommendation 6: *Create and fill role of Assistant Superintendent Offender Services.*

The position has been created and filled. It is currently vacant however, as the position holder is acting in another role. Due to staffing shortages, the prison does not want to backfill by taking another officer from the prison floor and further impact service delivery.

Recommendation 7: *Create and fill a security position in the management team.*

This has not been actioned. The prison had to choose between funding a security position or a Finance Manager, and decided to prioritise the latter

Recommendation 8: *Implement a new staffing model to ensure the prison is appropriately staffed for its number of prisoners.*

New agreed staffing model approved 6/2017 and implemented 2/2018. A further staffing review at Superintendent level is due to be conducted in 6/2018. It appears that the staffing agreement was based on basic supervision levels and did not include consideration of staff needed for the delivery of services to prisoners.

Recommendation 9: *Introduce a more gender-balanced officer mix, and address any issues of sexism amongst staff.*

The issue of sexism amongst staff is addressed under code of conduct when issues arise. The more gender balance officer mix and proactive action in relation to sexism does not appear to have been addressed at this point in time.

Recommendation 10: *Recruit and retain more local Aboriginal staff.*

Three Indigenous staff have transferred to Broome from West Kimberley.

Recommendation 11: *Provide all prisoners with sufficient meaningful constructive activity, including work and skilling opportunities.*

This recommendation has not been addressed fully. The only work opportunities of any significance available to prisoners is section 95 external work, maintenance work, kitchen and laundry work. There are no other industries, no education and no facilities to establish anything.

Recommendation 12: *Increase the number of prisoners working in the community.*

This recommendation has not been addressed fully. The Section 95 work program is at capacity as there is only 1 Vocational Support Officer (VSO) to supervise prisoners. Another VSO position would provide more opportunities for the prisoners to work in the community as there appears to be plenty of demand within the community.

Recommendation 13: *Improve services and conditions for female prisoners at Broome.*

This recommendation has not been fully addressed. Under the proposed upgrades the women's section of the prison is to be converted into a reception area and the women are to be moved to a smaller section, being housed in a 3 or 4 cell donger-style building. This area is small and will not accommodate any other buildings, therefore the women will not have facilities to be provided any services or recreation. The plan of the former Superintendent was to house the women for as short a time as possible and then transfer them to West Kimberley or south. This situation will take women (main carers in most cases) away from country and away from family.

Recommendation 14: *The Department should acknowledge kinship and extended family relationships when processing prisoner applications to attend funerals.*

No action taken.

Recommendation 15: *Implement a full support services to meet the needs of Aboriginal prisoners.*

No action taken.

Recommendation 16: *Address the identified security risks in the maximum-security unit.*

It appears that the upgrades are going to address some of these issues, but there is doubt as that the upgrades will reduce all security risks identified in the report and in fact may create different security risks.

Recommendation 17: *Provide resources for Broome to undertake their own prisoner assessments.*

All assessments still being conducted by West Kimberley. A writers position is on the staffing plan, however it had been classified as a VSO position by the previous Superintendent. This is unusual as WA has never had a VSO writer position before. The cause of the delay to this position is not known but as this is a new position it could be subject to an establishment process to determine duties and classification.

10. Is overcrowding still a problem for West Kimberley Regional Prison and are prisoners still sleeping on mattresses on the floor?

During a recent monitoring visit on 3 May 2018, there were no prisoners sleeping on mattresses on the floor. Bunk beds have been fitted in many of the rooms in the houses and as such the bed capacity has risen from 150 to 223. (183 male and 40 female).

11. Have staff shortages at the WKPR been addressed?

As with Broome, West Kimberley has recently secured extra staffing (12 or 13 FTE's) as a result of a new staffing agreement. Also like Broome, however, the prison is still regularly suffering from unfilled rostered positions caused by sick leave, unscheduled leave and management of purchased leave which is not budgeted for staff

replacement. The extra FTE's (with no actual people to fill the positions) means that as of the 3 May 2018 the prison actually had 20 positions vacant.

12. How old is the escort vehicle at the WKRP and what is being done to address the fit out problems with the vehicle?

During a recent monitoring visit on 3 May 2018, the Superintendent showed us modifications that had been done to the vehicle in question.

- A double seat had been fitted to the centre compartment of the vehicle to allow for transportation of prisoners that do not require a secure pod. This also doubles as extra seating for staff if required.
- The wheelchair had been secured behind this double seat in a mount which has resulted in the wheel chair restricting access to the door of the inner pod unless the wheel chair is removed, and
- The fridge had been made removable to provide more space if needed.

None of these modifications address the recommendation made other than when transferring prisoners that do not require a secure pod.

The vehicle itself is a secure escort vehicle assigned to WKRP which originally was used at Karnet Prison. The vehicle (1QBY-150 known as Charlie 1) has a 2015 chassis and was placed in service in June 2016.

13. Has the situation with the Bunbury prison treatment assessments improved since report 115 was issued.

There has been no improvement.

As at 26 April 2018, there were 41 prisoners at Bunbury Regional Prison waiting for treatment assessments. Information that was provided to us prior to the inspection of Bunbury in September 2017 indicated that 21 prisoners at Bunbury had outstanding treatment assessments.

The situation is actually worse now than it was when we inspected the facility six months ago.

Another development since the 2017 inspection of Bunbury is the removal of PCS from Bunbury. The PCS team at Bunbury were responsible for the joint responsibilities of providing counselling and delivering offender treatment programs at Bunbury. In between these responsibilities they were required to conduct the treatment assessments for prisoners whose IMP required these. We found that the team was struggling to keep up to date with the treatment assessments, and prisoners were consequently missing out on programs.

At this stage, there is no PCS coverage at Bunbury Regional Prison. So prisoners no longer have access to counselling. This has also reduced the number of personnel available to conduct the treatment assessments. So there is no promise that this situation will improve in the future.

14. Has there been any improvement to health services and GP services since the report was released.

There has been no improvement.

The inspection finding was that access to health services at Bunbury was increasingly limited because there had been no increase in resources (nursing positions and GP services) commensurate with the increase in the prisoner

population. Between the 2014 and 2017 inspections, the prisoner population had increased from 297 to 345. This increase was confined to the Pre-release Unit (PRU) which had been completely double bunked increasing capacity of the PRU to 144. The PRU was originally designed to accommodate 72 prisoners, but had been double bunked within six months of opening (it opened in November 2008) to 108. It is now completely double bunked.

Despite this increase, the number of nursing positions available to service the entire prison (including the PRU) had remained the same. And GP services had actually been reduced, from three days per week to three days per fortnight. The prisoners in the PRU (up to 144 prisoners, 130 during the inspection) only have access to a GP for half a day once a fortnight.

The only change to the health service at Bunbury since the inspection in September 2017 has been the appointment of a substantive nurse manager. We commented on this in the inspection report (see page 31) and noted that the lack of a substantive nurse manager was unsettling for the nursing staff. We are pleased that this has been resolved and a substantive CNM is now in place at Bunbury.

15. Provide the Committee an update on the 14 recommendations in report 113.

This Office monitors progress against the recommendations we make over the three year period between the inspections of each facility. Bunbury Regional Prison was inspected in September 2017, and the report was made publicly available on 12 April 2018. This is our process of continuous inspection, and it is through this process that we monitor, observe and obtain evidence about the Department's and the prison's progress against our recommendations. We do this through our regular liaison visits (every three months), our Independent Visitor reports (once a month), monitoring information on the TOMS database, telephone and email contact with managers at the prisons, and so on.

Given that only eight months have passed since the Bunbury inspection report was made public, it is premature to expect much progress against the recommendations, and in fact some recommendations may not have progressed at all in this timeframe. The Department has set its own targets of completion of the Bunbury recommendations. As at 30 April 2018, three recommendations had been actioned. The next meeting to discuss the Bunbury recommendations involving the Bunbury Superintendent and head office personnel is scheduled for 28 May 2018.

Should you require any further please do not hesitate to contact
Inspector on _____ or alternatively via email at _____

Deputy

Andrew Harvey
A/Inspector

18
17 May 2018

From:
Sent: Wednesday, 13 December 2017 6:52 PM
To:
Cc:
Subject: RE: Outcomes from today

Hi

This accurately captures the outcomes of today's meeting. has forwarded me the email you've sent through names of staff and level of access required. I've allocated to the appropriate team to determine the protocols and will be in contact by Friday to confirm the details. Thank you for confirming the approval levels.

I confirm the extension to the back end TOMS access to 31 March after which it will be reviewed and only ceased once you are confident that the Reporting Framework is meeting your needs. I'll advise the DG and ED of this change to the provisions set out in the letter to the Inspector.

Once your access to the Reporting Framework, the BI&R Branch will work with you to arrange dates for training and provide the support materials discussed today.

In the meantime who attended today's meeting is progressing the MOU with the BI&R team who will be the Department's contact point for data provision under the MOU.

Regards,

| Chief Information Officer | Corporate Services
Department of Justice | Westralia Square, 141 St Georges Terrace, PERTH WA 6000
t: | **f:** | **m:** | **w:** www.justice.wa.gov.au

From:
Sent: Wednesday, 13 December 2017 3:47 PM
To:
Cc: (OICS);
Subject: Outcomes from today

Hi.

This is to confirm my understanding of the outcomes of today's meeting

- OICS staff will be given access to the Corrective Service reporting framework, pending:
 - OICS identification of staff/usernames of people who will access the reporting layer
 - OICS identification of staff/usernames of people who will access the relational layer and sandbox
 - DoJ determining protocols for adding new users (please note that Andrew has indicated in the new draft MOU that he is happy for all TOMS access forms to be signed off by the Deputy or Inspector so that we carry the risk for ensuring that only OICS staff who need access will apply. I'm happy to start this process to add new users onto the reporting framework.)
- Our current access to the raw data on TOMS through SQL will be extended to the end of March 2018
- The intention is to terminate our access after this date, but this is reliant on:
 - An MOU being agreed and signed

- o OICS satisfaction that the reporting framework provides most of our data needs
- o The completion of training on the reporting framework

I will pull together the list of OICS staff who need access to the reporting framework and send it over to you ASAP. The priority will be the review team, but if the report layer is ready to be accessed it would be good for this to be available to all eligible staff so they can see the new reports.

I look forward to hearing from you about the next iteration of the MOU.

Director Reviews

Office of the Inspector of Custodial Services
Level 5, Albert Facey House
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Perth WA 6000

Ph:

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From:
Sent: Tuesday, 12 December 2017 3:01 PM
To:
Subject: FW: TOMS Access - Your ref AD2017/153094

Definitely progress.

Deputy Inspector

Office of the Inspector of Custodial Services

Phone:
Mobile:

From:
Sent: Tuesday, 12 December 2017 3:00 PM
To:
Subject: RE: TOMS Access - Your ref AD2017/153094

Thanks. The conversation between [redacted] and I [redacted] did reassure us.

and I expect that the discussion tomorrow will tend to focus on the way forward, rather than the specific wording of the draft MOU. Two reasons for this: firstly because its unlikely we'll have enough time to start discussing specific wording, as tomorrow's meeting is actually our regular scheduled monthly meeting with PAR. And secondly because of the sizable gaps in the draft provided to us. Having said that, the draft is a very useful starting point and I am certainly prepared to provide some specific feedback on it at tomorrow's meeting, as is

Deputy Inspector

Office of the Inspector of Custodial Services

Phone:
Mobile:

From:
Sent: Tuesday, 12 December 2017 2:41 PM
To:
Cc:
Subject: RE: TOMS Access - Your ref AD2017/153094

Hi

I have now had the opportunity to discuss this with [redacted] and a clarifying email will be provided by her this afternoon. In short, the two week period will not be applied.

We are all keen to provision adequate data to OICS through our data reporting tools and on a basis clearly set out in a an agreed MOU. It is a source of frustration to me that this has moved more slowly than should be the case.

has had further discussions with |
scheduled tomorrow on this topic.

today and I understand a meeting is

I will seek a report back from that meeting. I will be taking a direct interest in moving this forward.

Regards

| Acting Executive Director | Corporate Services
Department of Justice | Level 8, 141 St Georges Terrace, PERTH WA 6000

t: m: | w: www.justice.wa.gov.au

From: | (OICS)
Sent: Tuesday, 12 December 2017 10:45 AM
To:
Cc: (Custodial Inspector)
Subject: TOMS Access - Your ref AD2017/153094

Hi

has just alerted me to the response we received from the Department about our TOMS access, and specifically the intention to cut our access to the raw data on TOMS in two weeks time. While the letter shows an intention to give us access to the data warehouse this will not address all of our needs, and will also not be in place in two weeks time.

We received a first rough draft on an MOU between our offices after COB last Friday. There has been no communication about this MOU since our preliminary discussion in May this year. At the May meeting we agreed that access to raw TOMS data could be removed if it was suitably replaced by a dedicated DoJ resource to provide information to our office for reviews and inspections. We since trialed seeking information from KIT in the manner proposed but were unsuccessful in obtaining reliable data. In September our office expressed concerns about how this trial would affect the MOU but received no response from the Department about our concerns. I note that our concerns remain unaddressed.

Our letter to was the result of a lack of communication from DoJ about the MOU or our TOMS access. Given we are only in the preliminary stages of developing an MOU and the concerns raised in September have not been acknowledged or addressed we were shocked to receive a letter stating our access to raw offender data will be terminated in two weeks. has responded directly to (see below) and noted that Neil will follow this up directly with.

Given the letter states enquires are to be directed to you, I'm forwarding this on for your information.

We remained committed to a solution that does not impinge either on our powers under Section 28 of the Inspector of Custodial Services Act 2003, or DoJs necessary access controls. Obviously I am very happy to discuss with you at your earliest discretion, particularly given your two week deadline.

Deputy Inspector

Office of the Inspector of Custodial Services
Level 5 Albert Facey House
469 Wellington Street
Perth, Western Australia 6000

Phone: -
Mobile: 0
Facsimile:

www.oics.wa.gov.au

From:
Sent: Tuesday, 12 December 2017 9:43 AM
To:
Subject: RE: TOMS Access

Thanks for copying us into this. From our perspective this doesn't address any of our issues and won't allow DoJ to meet its legislative requirements to provide us with information. We have looked at the first draft of the MOU and realistically estimate it will take at least three months for this to be finalised and our respective concerns to be met. Cutting our access in two weeks is premature and not what we originally agreed. I will leave this to to address directly with

From: [mailto:
Sent: Monday, 11 December 2017 7:26 PM
To:
Cc:

Subject: FW: TOMS Access
Importance: High

Hi

Please find attached, a letter from regarding access to offender in custody data via TOMS. A hard copy will be posted in the mail.

will have now received a copy of the draft MOU ahead of the monthly meeting between OICS and the Performance Assurance and Risk Directorate this Wednesday. and/or from the Business Intelligence and Reporting Directorate will also be attending. I look forward to discussing and refining the terms MOU when we meet.

Regards,

| Chief Information Officer | Corporate Services
Department of Justice | Westralia Square, 141 St Georges Terrace, PERTH WA 6000
t: | **f:** | **m:** | **w:** www.justice.wa.gov.au

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MOU Ref no.: 2014/0001

Memorandum of Understanding

between

Department of Corrective Services

and

Office of the Inspector of Custodial Services

in relation to

Communication protocols for information requests, reviews, and inspections

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1 Parties and Commencement Date

This Memorandum of Understanding dated 23 March 2011 is between:

DEPARTMENT OF CORRECTIVE SERVICES (ABN 25 103 389 163) of 141 St Georges Terrace, Perth, Western Australia 6000 and

OFFICE OF THE INSPECTOR OF CUSTODIAL SERVICES of Level 27, 197 St Georges Terrace, Perth Western Australia 6000

2 Purpose of the Memorandum of Understanding (MOU)

The purpose of this Memorandum of Understanding is to establish protocols between the Office of the Inspector of Custodial Services (OICS) and the Department of Corrective Services (DCS) in relation to communication and liaison between the agencies.

2.1 Agreement

The Department of Corrective Services and the Office of the Inspector of Custodial Services (the parties) agree to abide by the protocols as outlined in the MoU.

2.2 Cooperation

Notwithstanding the contents and limitations of this MoU, the parties agree to develop and maintain a co-operative relationship and exchange information as appropriate to facilitate and promote the improvement of custodial services.

3 The Role of DCS

DCS has the functions conferred under

4 The Role of OICS

The functions of the Inspector of Custodial Services are set out in the *Inspector of Custodial Services Act 2003*. They include, but are not necessarily limited to:

1. Mandatory inspection of each prison, detention centres, court custody centre and lock-up at least once every three years, further inspections may be undertaken as the Inspector sees fit (sections 19 and 21)
2. To review any review any custodial services or aspect of a custodial service in relation to a prison, detention centre, or aspect of the CSCS Act, whether that service is in relation to one or more particular prisoners, detainees, or persons in custody (section 22).
3. The Inspector is required to report to Parliament (section 20)

4. The Inspector may at any time report, and provide advice or recommendations to the Minister concerning as the Inspector considers appropriate (section 23)
5. The Inspector may report to the public (section 46)

In addition the Inspector is required to consider certain directions of the Minister, and requests for information

The powers of the Inspector are set out in Division 2 of the *Inspector of Custodial Services Act 2003*, which more generally provides that the Inspector has the power to do all things necessary or convenient to be done for or in connection with the performance of the Inspector's functions.

5 Commencement of the MoU

This Memorandum of Understanding will commence on the date on which the last party signed the MoU.

5.1 Termination

Either party may terminate this Memorandum of Understanding by notifying the other party in writing.

6 Definitions

This section lists any definitions and/or any abbreviations/acronyms in alphabetical order.

AC	Assistant Commissioner
DC	Deputy Commissioner
DCS	Department of Corrective Services
OICS	Office of the Inspector of Custodial Services

7 No intention to create legal obligation

This Memorandum of Understanding is an expression of the intention of the parties which is binding in honour only. It is not intended that this MoU give rise to any legal relationship, rights, duties or consequences or be the subject of litigation.

Further it does not restrict, in any way, the powers and responsibilities provided to the Inspector by virtue of the Inspector of Custodial Services Act 2003.

8 Communication

8.1 Communication and Liaison

8.1.1 Day-to-day liaison and communication between the parties will primarily be the responsibility of:

- For Inspections and Liaison: the OICS Director of Operations and the DCS Coordinator Custodial Inspections.
- For Thematics, Reviews and Audits: the OICS Principal Audit and Research Officer and the DCS Coordinator Custodial Inspections.

8.1.2 Liaison and communication between OICS and DCS facilities, will primarily be the responsibility of the assigned OICS Inspection and Research Officer and the respective Superintendent (or Director in the case of Acacia Prison).

8.1.3 Initial communication between an OICS Inspection and Research Officer and respective Superintendent in relation to an inspection will also include the relevant divisional Assistant/Deputy Commissioner and the Coordinator Custodial Inspections.

8.1.4 Initial notification of a proposed Audit or Review will be made by OICS to the Commissioner, with a copy provided to the Coordinator Custodial Inspections. Upon this notification DCS will nominate an officer to serve as the initial point of contact from the relevant division.

8.2 Meeting arrangements

Liaison and communication at senior executive level between DCS and OICS will occur at regular intervals.

9 Inspections

9.1 Scheduling

9.1.1 OICS will provide DCS with an annual prospective schedule of inspections. In addition, OICS will send a notification for each inspection with details and dates for:

- The information request for each announced inspection
- The dates for the on-site phase for each announced inspection
- The likely date of the exit debrief
- The dates that draft reports will be sent to DCS for information and comment (normally, within 12 weeks of the completion of the on-site phase of an inspection)

- The dates that comments by DCS are required for scheduled reports (normally 4 weeks though in exceptional circumstances an extension may be sought)
- A proposed date for lodging the final printed report with Parliament pursuant to section 35 of the Inspector of Custodial Services Act 2003 (WA).

9.1.2 OICS will advise the approximate dates for any information requests or requests for comments on drafts as soon as this information becomes available. Any deviations from the schedule will be kept to a minimum and will be in advance notice to DCS.

9.2 Changes to Scheduling

9.2.1 Nothing in this agreement precludes OICS from making an unannounced inspection or an information request relevant to ongoing inspection/liaison work throughout the year when OICS considers it necessary to do so. However, OICS undertakes to spread out all routine information requests over the year.

9.3 Requests for information

9.3.1 All information requests relating to inspections shall be made through the Coordinator, Custodial Inspections who will liaise with relevant staff within DCS.

9.3.2 DCS will respond to each OICS request according to the following timeframe:

- Where the request is for information required prior to an inspection – within five weeks.
- Where the request is an adhoc request for an already existing document (as defined by Section 5 of the *Interpretation Act 1984*) – within two weeks.
- Where the request is an adhoc request for information requiring the preparation of a separate report – within four weeks.

10 Audits and Reviews

10.1 Scheduling

10.1.1 As a significant proportion of OICS's program of Audit and Reviews will involve issues of topical and current interest it will be impossible to provide DCS with an annual prospective schedule of intended reviews. Notwithstanding this OICS undertakes to provide the DCS Coordinator Custodial Inspections every two months, via the regular meetings between OICS and Professional Standards, with a list of current audits and, where known, those which it anticipates commencing within the next two months.

10.2 Changes to Scheduling

10.2.1 Nothing in this agreement precludes OICS from commencing an unannounced Audit or Review, or from an information request relevant to a possible Audit or Review throughout the year when OICS considers it necessary to do so. However, OICS undertakes to spread out all routine information requests over the year.

10.3 Requests for information

10.3.1 Once the initial notification of a proposed Audit or Review has been made and DCS have nominated an officer to serve as the initial point of contact from the relevant division all further requests for information will be made via that nominated officer, who will liaise with relevant staff within DCS.

10.3.2 DCS will respond to each OICS request according to the following timeframe:

- Where the request is for data which already exists (ie involves extraction from a Departmental database) – within two weeks.
- Where the request is an adhoc request for an already existing document (as defined by Section 5 of the *Interpretation Act 1984*) – within two weeks.
- Where the request is an adhoc request for information requiring the preparation of a separate report – within four weeks.

11 Notifications

11.1 Incidents

11.1.1 All DCS critical incidents (as defined in Policy Directive 41 for adult custodial and XXX for Community and Youth Justice) will be reported to the Inspector and Deputy Inspector as soon as practicable through the relevant Deputy/Assistant Commissioner or their delegate, but no later than 24 hours following an incident, or in the case of a person detained under the Terrorism (Preventative Detention) Act 2006 (WA), as soon as practicable after the person has been admitted to custody, pursuant to s33 (f) of that Act.

11.1.2 OICS will undertake to notify the relevant Assistant/Deputy Commissioner of issues as it becomes aware of them during a liaison or inspection visit to a facility or at any other time.

11.1.3 Communication will be made by DCS email to OICS email and vice versa.

12 Reports and Recommendations

12.1 DCS Response

12.1.1 DCS will respond to each OICS inspection draft report within four weeks with:

- A log of any errors of fact and/or omissions contained in the draft Report
- Any comment DCS may wish to make on the recommendation(s).

12.1.2 Nothing in this MoU prevents the Inspector from publishing a report without the Department's response but it is not the Inspector's intention to do so.

12.1.3 The categories of support for the recommendations contained in the Report are set out below:

Supported	The recommendation is fully supported and the Department will take action to address the recommendation.
Supported in Principle	The recommendation is supported in principle however the Department identifies practical impediments to the implementation, e.g. lack of funding, and will take no action at this juncture to address the recommendation.
Supported – existing Department initiative	The recommendation is already an existing Department identified initiative and action was underway prior to the inspection to address the recommendation. Details of the action taken will be provided.
Supported in Part	The recommendation has multiple parts and some parts are supported while other parts are not supported. The Department to identify which parts are supported and which are not, and specify action to address supported components.
Not Supported	The recommendation is not supported by the Department and will not be actioned. The Department to outline why it doesn't support the recommendation.

Notes	The recommendation is one that is outside the influence/control of the Department, or is one where the Department will conduct further evaluation prior to making any commitment to support or progress.
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12.1.4 DCS, through the Critical Reviews Unit within Professional Standards Division, will keep a log of all recommendations relevant to the Department emanating from OICS reports and will track the progress of supported recommendations until completed or superseded.

12.2 Press Release

12.2.1 OICS will produce a press release shortly before each Final Report is released (following it sitting on the floor of Parliament for one month) and will provide a copy to DCS and the Minister's Office.

13 Superseded recommendations

To avoid confusion and to ensure recommendations are contemporary, any recommendation recorded as 'In Progress' at the time of re-inspection and, are similar to recently released recommendations, will be considered superseded by the most current inspection report and recommendations.

14 Review date

Responsibility for maintaining, reviewing and up-dating this MoU resides conjointly with the Deputy Inspector of Custodial Services and the Assistant Commissioner Professional Standards in the Department of Corrective Services. To ensure currency, this MoU will be reviewed every three years.

15 Signatures

In the spirit of cooperation and collaboration in which this MOU has been entered into and with the mutual understanding that this is a voluntary working agreement, the following individuals acting on behalf of their respective organisations accept the terms and conditions stated in this MOU.

Signed on behalf of the Department of Corrective Services

Signature:

Name:

Title:

Date:

Signed on behalf of the Office of the Inspector of Custodial Services

Signature:

Name:

Title:

Date:

22 **Power to ask for information, documents and other things**

- (1) This section applies if the inspector believes, on reasonable grounds, that a person can provide information or produce a document or something else relevant to an examination or review under section 18.
- (2) The inspector may, by written notice given to the person, require the person to provide the information or produce the document or other thing.
- (3) The notice must state how, and the time within which, the person must comply with the requirement.
- (4) A person commits an offence if—
 - (a) the person is required by a notice under this section to provide information to the inspector; and
 - (b) the person fails to provide the information to the inspector as required.

Maximum penalty: 50 penalty units.

Note 1 The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

Note 2 Giving false information is an offence against the Criminal Code, s 338.

- (5) Subsection (4) does not apply—
 - (a) to a detainee; or
 - (b) if the person has a reasonable excuse for failing to provide the information to the inspector as required.
- (6) A person commits an offence if—
 - (a) the person is required by a notice under this section to produce to the inspector a document or other thing; and
 - (b) the person fails to produce the document or other thing to the inspector as required.

Maximum penalty: 50 penalty units.

- (7) Subsection (6) does not apply—