

## HUMAN RIGHTS WATCH - RESEARCH ON PRISONERS WITH DISABILITIES

REQUEST FOR INFORMATION - Letters dated 22 May 2017 and 15 December 2017

### PRELIMINARY FINDINGS REGARDING PRISONERS WITH DISABILITIES

#### Physical and Sexual Violence:

**Both men and women with disabilities interviewed by Human Rights Watch reported experiencing physical and sexual violence at the hands of other prisoners and/or prison officers with little or no redress or accountability. In particular, we would welcome information from the Department of Justice concerning the following:**

1. What are the current procedures in place regarding prisoner complaints? What steps can a prisoner take to report a complaint, particularly with regard to physical or sexual violence? What independent mechanisms are in place to investigate prisoner complaints?

#### Response:

The Department of Corrective Services manages all complaints in accordance with the Australian Standards of Complaints Handling AS ISO 10002 - 2006.

Adult Custodial Rule 5 – Requests, Complaints and Grievances by Prisoners provides the guidelines, in accordance with *section 67 of the Prisons Act 1981*, for prisoner complaints.

Prisoners can make a request or complaint to:

- The officer in charge of the prisoner ( i.e. Unit Manager, Prison Officer)
- The Designated Superintendent
- A prison visitor (i.e. Aboriginal Visitor Systems Officer, Independent Prison Visitor)
- The relevant Director, or
- The Chief Executive Officer.

In addition, prisoners, staff and visitors can lodge a complaint by way of free-call or private and confidential mail. The list of recipients include:

- Administration of Complaints, Compliments and Suggestions (ACCESS)
- Attorney General ( Commonwealth and State)



**Corrective Services**

- Commissioner for Corrective Services
- Corruption and Crime Commission
- Equal Opportunity Commission
- Health and Disability Services Complaints Office
- Human Rights and Equal Opportunity Commission (Commonwealth)
- Minister for Corrective Services
- Office of the Inspector of Custodial Services
- Ombudsman
- Commonwealth Ombudsman
- Public Interest Disclosure Officer.

Where a prisoner makes a complaint of assault by another prisoner, the Designated Superintendent is advised and an investigation commences. In instances of serious assaults the relevant Director and Corrective Services Investigation Services are also notified. If the investigation indicates the assault constitutes an indictable offence or the prisoner requests such actions, the matter is referred to WA Police for investigation.

If a prisoner makes a complaint that an assault by an officer has occurred, the Designated Superintendent is advised and the complaint is referred to Corrective Services Investigation Services. All complaints of this nature are forwarded to police by Investigation Services to provide independent determination and investigation. Police will then determine if the matter is to be dealt with by them as a criminal matter, or referred back to Corrective Services.

Where a departmental employee is alleged to have committed a serious misconduct, the Crime and Corruption Commission are also notified.

2. How many incidents of physical or sexual violence did the Department of Justice or individual prisons in Western Australia record in 2016 and 2017? In how many of these instances did the victim have a physical, sensory, cognitive, or psychosocial (mental health) disability?

Response:

Number of incidents of physical or sexual violence:

Year	Assault Type	# of Victims
2016	ASSAULT AGAINST OFFENDER	265
2016	SERIOUS ASSAULT AGAINST OFFENDER	55

2017 ASSAULT AGAINST OFFENDER 262

SERIOUS ASSAULT AGAINST  
2017 OFFENDER 49

Note: Serious Assault includes Sexual Assault. Data in relation to prisoners with a mental health disability is not readily available.

3. What assistance or services do prisons offer survivors of physical or sexual violence?

Response:

Services to prisoners in all custodial facilities are available through:

- Prison Counselling Service (PCS). PCS undertake clinical assessments and provide interventions to prisoners identified as:
  - at acute risk of suicide or self-harm;
  - at chronic risk to self;
  - in crisis;
  - vulnerable within the prison system, or
  - experiencing difficulty adjusting to prison or transition to release from custody
- Health and Mental Health Services

Health care is provided to prisoners who are victims of assault as required within the prison by Departmental health or mental health staff, or they may be referred to external hospital for further ongoing assessment and treatment.

- Prison Support Services Aboriginal Visitors Scheme

The Department's Prison Support Service (PSS) encompasses the Aboriginal Visitors Scheme (AVS) and the Peer Support Program. Through service delivery within these areas PSS contributes to the overall suicide and self-harm prevention and intervention strategy in Western Australia's custodial facilities. Specifically, PSS has a role in providing support and cultural expertise to persons in custody, who are identified as at a statically higher risk of self-harm and/or suicide, such as those identified on the ARMS and SAMS.

The AVS is a support service that provides cultural contact and interventions to Aboriginal people in custody by facilitating regular and requested visits to prisons, juvenile detention centres and Western Australian Police (WAPOL) centres throughout WA. The aim of this service is to reduce the likelihood of Aboriginal deaths in custody, by AVS Visitors providing support to all Aboriginal persons in custody.



### **AVS-Babijaa Elders Program**

The Babijaa Elders Program has been developed to promote cultural resilience and healing for Aboriginal people within the Western Australian prison system. The overall aim of the Babijaa Program is to create an environment where our Elders can connect and communicate their traditional knowledge and skills to reignite, respect and reinforce cultural and self-identity. The Babijaa Program comprises of six modules that are used as tools to guide participants through the natural elements of Aboriginal history and culture.

Through combining these modules we are highlighting the synergy of Aboriginal history and culture and emphasising the importance of Elders in the process of connecting with self and culture to facilitate change. The Babijaa Elders Program is currently embarking on the implementation phase, with pilot programs commencing at Casuarina Prison and Banksia Hill Detention Centre. No data is available to report upon at this stage.

- Prison Support – peer support scheme

### **Peer Support Program**

The Peer Support Program (PSP) forms part of the Department wide suicide prevention strategy, and was originally piloted in 1993 aimed at reducing the risk of self-harm and suicide with young Aboriginal persons in custody under the age of 25 years.

The overall finding from the PSP identified that the risk of suicide was greatly reduced when there was sufficient access to internal supports and/or support provided by others. Experienced and respected prisoners are trained and used as valuable resources to deliver this [peer] service within the prison community. As a result of these findings the PSP was implemented Department wide, promoted to reduce the risk of suicide and/or self-harm.

- Special Aboriginal and Non-Aboriginal Services through NGOs

**Solitary Confinement:**

**Prisons in Western Australia use solitary confinement or separate confinement for different reasons: to punish, manage, protect or ostensibly treat prisoners. Human Rights Watch found that prisoners with cognitive or psychosocial (mental health) disabilities are disproportionately represented in solitary confinement regimes (special handling units, detention or punishment units, and crisis, observation, or safe units) across prisons visited.**

4. Does the Department of Justice have data on the number of prisoners with cognitive or psychosocial (mental health) disabilities who were placed in solitary confinement in detention or punishment units as well as in crisis or safe units (separate confinement) in 2016 and 2017? How many of these were Aboriginal or Torres Strait Islander prisoners?

Response:

Data in relation to prisoners with a mental health disability is not readily available.

5. How many special handling units are there in Western Australian prisons? How many cells does each unit have and how many prisoners were detained in these units in 2016 and 2017?

Response:

The Department has one Special Handling Unit (SHU) at Casuarina Prison.

According to TOMS data, the SHU has 30 cells.

In 2016, 19 distinct individuals are recorded as being allocated to a cell in the SHU

In 2017, 17 distinct individuals are recorded as being allocated to a cell in the SHU

(The average daily population of the SHU in 2016 and 2017 was 11)

6. Currently, how many people with physical, sensory, cognitive, or psychosocial (mental health) disabilities are in prolonged solitary confinement in special handling units in Western Australia? How many of these are Aboriginal or Torres Strait Islander prisoners? Amongst the prisoners currently in special handling units, what has been the longest duration that a prisoner with a disability has spent in a special handling unit in a Western Australian prison?

Response:

Data is not readily available.

7. Are there any special handling units in women's prisons in Western Australia?

Response:

There are no Special Handling Units (SHU) in women's prisons in Western Australia.

**Lack of Staff Training:**

**Human Rights Watch research found that prison staff often lacked proper awareness and training on how to interact with prisoners with disabilities. In particular, we would appreciate answers to the following questions:**

8. Do prison staff receive training on how to engage with people with disabilities, particularly people with cognitive or psychosocial (mental health) disabilities? If so, what does the training consist of and how often do staff receive refresher courses?

Response:

All prison officers complete a foundation programs upon commencement. This includes:

- Working with People with Disabilities in the Justice System - 3hrs session - Session covers: communication techniques, learning strategies, needs of people with disabilities, services available, Acquired Brain Injuries, Disability Services Commission
- Mental Health Online Modules online training (6 Modules). This program is mandatory for all staff:
  - Module 1: What is Mental Health
  - Module 2: Alcohol and Other Drugs
  - Module 3: Communication and Working With People in our Care
  - Module 4: Aboriginal People
  - Module 5: Women
  - Module 6: Young People
- Effective Communications – 1 day session – Session covers: communication strategies, recognising communication blockers and work arounds, transactional model of communication, how messages are sent, received and understood, visual communication methods.
- Suicide Prevention – Gatekeeper – 2 day session – Session covers: Overview of suicide, risk and protective factors, knowledge of warning signs, mental disorders and the associated risk assessment, intervention strategies for low, medium and high risk of suicide, and understand and be able to identify self-harm.
- Mental Health First Aid – 2 day session – Session covers: Identifying common mental health problems, applying the five steps to mental health first aid, understanding and treating depression and anxiety disorders, understand and psychotic disorders, understand substance use disorders, and identifying community-based treatment and resources for persons with mental health issues
- Online Suicide Prevention Strategy. This program is mandatory for all prison officers:
  - This training provides staff with an understanding of the procedures for managing prisoners identified as at risk of self-harm or requiring additional support and monitoring

There is no refresher training however training can be accessed on a needs basis through the local Satellite Trainer located at each prison, directly through the Academy, or online through the Academy portal (Mental Health Commission Suicide Awareness online training)

9. How often do prison staff receive their respective training? Are there opportunities to receive further training upon request?

Response:

All training within prisons is coordinated through the Academy's Satellite Trainers who are positioned at each prison throughout the state (excluding Pardelup Prison Farm which is serviced by Albany Regional Prison). Each prison has a designated day (weekly) and specific time dedicated to staff training and development. Critical operational skills refresher training such as use of force (including de-escalation) and CPR is completed annually. Additional training can be sourced upon request through the local Satellite Trainer or directly through the Academy. Various training is also available online through the Academy portal.

10. Do staff in detention, crisis, and special handling units receive training on how to recognise behaviour related to cognitive or psychosocial (mental health) disabilities? Do they receive any specific training on how to engage with people with cognitive or psychosocial (mental health) disabilities, including techniques?

Response:

All prison staff including those staff working in management units are required to complete training on how to recognise behaviour related to cognitive or psychological (mental health) disabilities and annual critical operational skills refresher training such as use of force (including de-escalation) as per Item 8. Currently there is no specifically designed training program for staff working in management units.

**Bias against Aboriginal and Torres Strait Islander prisoners and Lack of Aboriginal and Torres Strait Islander Staff:**

**Human Rights Watch found that many Aboriginal and Torres Strait Islander prisoners experienced bias and racism from staff as well as fellow prisoners. Some Aboriginal and Torres Strait Islander prisoners with disabilities told Human Rights Watch that they are wary of accessing services as they faced negative attitudes from prison or health staff. Human Rights Watch would appreciate answers to the following questions:**

11. What steps is the Department of Justice taking to address racism and bias expressed by staff against Aboriginal and Torres Strait Islander prisoners?

Response:

The Department of Justice is committed to embedding initiatives and processes that are culturally sensitive, inclusive and responsive to Aboriginal People. Currently there is cultural awareness training available to all prison employees as part of their entry level training and as ongoing professional development for all employees. The Department is preparing its Reconciliation Action Plan for the period 2017/18 to 2020/21 which focuses on developing and delivering targeted initiatives that produce better outcomes for Aboriginal employees and those in the care of the Department. Among the key priorities of the Reconciliation Action Plan will be to improve the Aboriginal cultural competency of employees and to increase the cultural competency of services provided by the Department. The Reconciliation Action Plan will be used as an important strategic mechanism to promote better outcomes for Aboriginal people through improved understanding of lives, cultures and the impact of shared histories. Strategies in the new RAP will include:

- Development and implementation of an Aboriginal Workforce Development Strategy
- Development and delivery of cultural competency training for employees
- Embedding Aboriginal Services Committees in custodial facilities
- Developing a targeted Aboriginal Stakeholder engagement strategy

12. Do prison and health staff receive any cultural training to help them better engage with Aboriginal and Torres Strait Islander prisoners?

Response:

The current standard of entry training for Prison Officers in WA is the Certificate III in Correctional Practice (Custodial). The program is delivered by way of integrated learning and assessment experiences, and is 9 months in duration. This probationary period encompasses ten weeks of Academy based learning in the Entry Level Training Program (ELTP), and the balance of the initial 9 month period 'on-the-job' learning at their posted prison. The learning program includes the following units of competency relevant to cultural awareness:

CSCOFM005 Protect the safety and welfare of Aboriginal and Torres Strait Islander offenders

Learning outcomes include

1. Monitor ATSI offenders
2. Respond to identified risks to ATSI offenders

#### **PSPGEN015 - Work effectively with diversity**

Learning outcomes include: -

1. Recognise and value individual differences
2. Work effectively with diverse clients and colleagues

#### **CSCOFM004 - Protect the safety & welfare of vulnerable offenders**

Learning Outcomes include: -

1. Understand the needs of various prisoner groups
2. Identify at risk prisoners

#### **CSCOFM005 - Protect the safety & welfare of ATSI offenders**

Learning outcomes include: -

1. Understand the specific needs of ATSI prisoners
2. Identify the various support services and programs available for ATSI prisoners

#### **CSCORG002 - Communicate effectively**

Learning outcomes include: -

1. Identify communication blockers and strategies to overcome these
2. Use techniques to convey messages to linguistically different groups.

Within each of these learning outcomes, course members are required to demonstrate competency in a variety of specific performance criteria associated with each learning outcome. Assessment is via a range of methods, including written assessment, scenario assessment, and workplace evidence.

Contributing towards learning for these units, the following sessions are also included in the Entry Level Training Program:

#### **Cultural Awareness**

This two day course entitled Culturally Speaking ensures exploration of issues from a range of perspectives. Key elements in the training include traditional culture, the history of colonization, impacts of our history, and working together. This course encourages movement beyond cultural awareness

into cultural responsiveness, and stresses the importance of self-determination, empowerment and agency for Aboriginal people. The training is very participative. Much of the learning happens through discussion, hands-on experiences, activities, exercises and role play.

**Working with Diversity**

This full day module is an interactive, activity-based learning module designed to engage participants in ways that challenge their assumptions and entrenched views. Participants consider how their own development, customs, traditions, upbringing and relationships with individuals and groups has informed their world view. Subject matter includes defining diversity, our world views, personal identity, Cycle of Inference (with particular emphasis on how this applies to young people with complex needs), practice, customs & culture, acceptance of diversity, equity, and values. Facilitators encourage open discussion and a safe environment in which participants can examine and challenge their personal bias with a view to better understanding themselves and the points of view of others. Strong emphasis throughout this session on young people being the product of every experience and opportunity they have had in their lives, and this includes their exposure to trauma.

13. What percentage of prison and health staff currently working in prisons across Western Australia identify as Aboriginal or Torres Strait Islander?  
**Corporate Services**

Response:

The percentage of prison and health staff currently working in prisons across Western Australia who identify as Aboriginal or Torres Strait Islander is 13%. (Please note this figure is calculated in accordance with the Public Sector Commission measure in the HRMOIR report which is based on valid responses received to this question).

**Limited Data on Prisoners with Disabilities:**

**Human Rights Watch found that there is a lack of adequate information on the number of prisoners with disabilities and the types of disabilities. In this regard, we would welcome the following information:**

14. In Western Australian prisons, how many prisoners have a physical, sensory, cognitive, or psychosocial (mental health) disability? How many of these prisoners are Aboriginal or Torres Strait Islanders?

Response:

Data in relation to prisoners with a mental health disability is not readily available.

15. What, if any, services are offered for people with disabilities? Are there specific services offered for Aboriginal or Torres Strait Islander prisoners?

Response:

Prison Health Services and Prison Counselling Services (PCS) provide for the treatment, management and/or rehabilitation for adult patients with physical/psychiatric/sensory and neurological disabilities.

Health Services also accesses and coordinates external secondary and tertiary care services from government or non-government agencies for patients whilst detained and in preparation for their return to the community.

Prison Services staff who come into contact with prisoners with intellectual disabilities and cognitive impairment are referred to the Coordinator Intellectual Disability Services who makes sure prisoners with an intellectual and/or cognitive disability receive safeguards appropriate to their type and degree of intellectual functioning.

Prisoners not coping in prisons are also placed on SAMS (Support and Monitoring System), which enables prisoners requiring multidisciplinary input, or additional support and monitoring are managed.

**Lack of Accessibility in Prisons:**

**Human Rights Watch Research found that many prisons were not accessible and difficult to navigate for people with physical disabilities. Human Rights Watch would welcome information regarding the following concerns:**

16. What steps is the Department of Justice taking to make infrastructure in all prisons accessible to prisoners with physical disabilities? What steps is the Department of Justice taking to make new prisons and construction accessible for people with disabilities?

Response:

For all new prisons, the Department is developing draft standards (Design Guidelines for Western Australian Correctional Facilities) for planning and construction of new facilities. The guidelines while yet to be approved through the DoJ Executive form the basis for design for new facilities and specifically state that:

*The Department of Justice is required to meet the provisions of the Disability (Access to Premises- Buildings) Standards 2009. In particular the objectives of the Standards are generally as follows:*

- a) *To ensure that reasonably achievable, equitable, and cost-effective access to buildings, and facilities and services within buildings, is provided for people with disabilities; and*
- b) *To give certainty to building certifiers, developers and building managers that, if access to buildings is provided in accordance with the Standards, the provision of access, to the extent covered by the Standards, will not be unlawful under the Act (Disability Discrimination Act 1992).*

These standards have most recently been applied in the construction of the Eastern Goldfields Regional Prison and Melaleuca Women's Remand Facility which have been constructed to meet these guidelines.

For existing prisons, as reported to the Disability Services Commission, the Department has developed a standard practice for design and retrofit of buildings, including fitouts that it complies with AS1428.1 (Design for Access and Mobility) as regulated by the Building Code of Australia. The Department continues to raise awareness of disability access and inclusion issues by promoting projects which have a direct benefit for people with a disability.

**Inadequate or Delayed Access to Health Services:**

**Human Rights Watch found that overcrowding resulted in long delays to see specialists or in accessing services. In this regard, Human Rights Watch would be grateful for information concerning the following:**

17. On average, how long does a prisoner have to wait before he/she meets with a doctor or a psychiatrist?

Response:

All prisoners are seen within 24 hours of entering into a prison by a Clinical Nurse. Prisoners are triaged based on their clinical needs. Where urgent, they are seen by a doctor within 24-48 hours.

18. On average, how long does a prisoner have to wait to be allotted a bed at a forensic hospital?

Response:

This information is not readily available. The allocation of beds at a forensic hospital is determined by Department of Health and is subject to availability.