



10
OPEAT
Submission No:20.....

Our ref: 200318049

Dr Andrew Southcott MP
Chair
Joint Standing Committee on Treaties
Parliament House
CANBERRA ACT 2600

FAXED

RECEIVED
- 2 MAR 2004

BY:.....

Dear Dr Southcott

THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Thank you for your letter to the Premier dated 5 December 2003 concerning the inquiry by the Joint Standing Committee on Treaties into the above Optional Protocol.

Consultation with relevant State Government departments and agencies confirms broad support for the provisions of the Optional Protocol. However several questions were raised in relation to the operation of the Optional Protocol. These are:

- how would the Commonwealth Government give practical effect to the Optional Protocol;
- what could be the financial implications for Western Australia, for example, responsibility for the costs associated with hosting the United Nations (UN) Subcommittee on Prevention or its national counterpart during an inspection program; and
- how would the proposed international, national and State inspection committees and authorities (such as the Western Australian Inspector of Custodial Services and the Parliamentary Commissioner for Administrative Investigations) work together.

You may be aware that the Office of the Inspector of Custodial Services was established by the Western Australian Parliament under the *Prisons Act 1981* in 2000 to bring independent external scrutiny to the standards and operational practices relating to custodial services within the State, including adult prisons (public and private), court custody and prisoner transportation. The Inspector's jurisdiction has recently been extended to juvenile detention centres by *The Inspector of Custodial Services Act 2003*.

The Office of the Inspector of Custodial Services monitors compliance with the UN Standard Minimum Rules for the Treatment of Prisoners in Western Australia. Furthermore, all correctional policies and practices used by the Department of Justice in Western Australia comply with the Standard Guidelines for Corrections in Australia and New Zealand, which in turn are based on UN Standard Minimum Rules for the Treatment of Prisoners and the Council for Europe Standard Minimum Rules. The Office of the Inspector of Custodial Services would therefore satisfy the requirements contained in Part IV of the Optional Protocol, in relation to Western Australia's preventive mechanisms.

The Inspector is independent and reports directly to Parliament on the findings of inspections and recommendations for change.

The Western Australia Police Service advised that the detention of individuals in its facilities is subject to specific instructions under the Police Commissioner's Orders and Procedures manual. The Western Australia Police Service is confident that those current practices are sufficient to prevent cruel, inhuman or degrading treatment of individuals in police custody.

Thank you for the opportunity to provide comments on this issue and I apologise for the delay in responding. It would be appreciated if the Committee were able to provide some guidance on the questions raised by Western Australian State Government departments.

I look forward to the Committee's report on this matter.

Yours sincerely



Petrice Judge
DIRECTOR
OFFICE OF FEDERAL AFFAIRS

/7 February 2004