



**Queensland
Government**

- 7 SEP 2005

Department of
Corrective Services

Office of the
Director-General

Committee Secretary
Senate Select Committee on Mental Health
Department of the Senate
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

It has come to my attention that allegations of prisoner mistreatment in Queensland were made by Ms Debbie Kilroy and Ms Michelle Tanin to the Senate Select Committee on Mental Health (the Committee) on 4 August 2005. Having regard to the nature of the allegations I feel obliged to write to you and respond on behalf of the Department of Corrective Services.

I do not intend to respond to each of the specific allegations that were made. The majority of the allegations have been fully investigated in the past and found to be without substance. Other allegations simply lack sufficient particulars to be able to provide any meaningful response. However, it should be noted that simply because a particular allegation has not been specifically addressed in this response, it does not indicate that the Department accepts the allegation.

Brisbane Women's Correctional Centre (BWCC) is a state of the art facility and is staffed by dedicated and professional officers. Staff carry out a very difficult function which has been made more onerous by the various inflammatory public allegations that have been made by Ms Kilroy against the Department and particularly management and staff at the Brisbane Women's Correctional Centre. Some of these allegations have been made in the media and not directly to the Department (making it difficult for the Department to appropriately investigate allegations). Other allegations continue to be repeated in public forums in spite of having been investigated and found to be without substance.

I will address some of the allegations made to the Committee below.

Modification to Sisters Inside's access to Brisbane Women's Correctional Centre:

I note at page 82 of Hansard Ms Kilroy states to the Committee that:

**Leaders in corrections:
Partners in criminal and social justice**

Level 24 State Law Building
50 Ann Street Brisbane

GPO Box 1054 Brisbane
Queensland 4001 Australia

**Telephone +61 7 3227 7111
Facsimile +61 7 3227 6668**

ABN 19 823 962 345

We used to have access inside all the prison, but we have been locked out since June last year. Our services can only be provided from the visits area, so we have no access to women within that crisis support unit..."

When asked by the Chair what reason was given by the Department for this action, Ms Kilroy responded:

We lodged a human rights complaint with the Anti-Discrimination Commission against the Queensland Government and from 17 June our services have been restricted and curtailed.

Ms Kilroy's statement in this regard is at best misleading. While the Sisters Inside organisation did make submissions to the Anti-Discrimination Commission Queensland in June, this was not the reason that access arrangements were modified. Fortunately, Ms Warner corrected the record when she made reference to threatened industrial action.

On 9 June 2004, prior to Sisters Inside lodging submissions with the Anti-Discrimination Commission, a number of reports appeared in both the local and national media concerning allegations made by Ms Kilroy, as a representative of Sisters Inside, against the Department. Ms Kilroy was quoted in media reports as stating:

"When you look at the photographs that are coming out of Abu Ghraib and the stories, they're the same stories we hear on a daily basis in our prisons".

Similar media reports continued on 10 June 2004. Reports made continual reference to Ms Kilroy's comparison of prisoner abuse in Iraq and allegations of mistreatment of women prisoners in Queensland.

On or about 12 June 2004, the Department became aware that staff at the Brisbane Women's Correctional Centre had passed a motion demanding that Sisters Inside be immediately suspended from BWCC because of these allegations Ms Kilroy made in the media. The motion advised that the allegations placed all corrective services staff and families' safety at risk. The threatened industrial action by staff posed a serious threat to the security and good order of BWCC and in turn to community safety.

A decision was then made that a set of protocols would be implemented in relation to Sisters Inside's access to correctional centres. These protocols did not have the effect of suspending Sisters Inside from the centre but instead essentially provided a framework that allowed staff of Sisters Inside to deliver their services in specific areas of BWCC. Prior to the interim protocols, Sisters Inside's access to prisoners was unstructured. Sisters Inside staff would identify the prisoner they wished to see and travel from unit to unit visiting these prisoners as they saw fit. As you would appreciate, custodial centres maintain highly regulated movements of persons through the centres to maintain safety of prisoners, staff and visitors and the security.

Changes to Sisters Inside's access to corrective services facilities were made in response to industrial unrest which resulted from the comments made in the media by Ms Kilroy. As you would appreciate, staff at the centre were distressed and angered by these inflammatory public comments. The protocols, implemented on 17 June 2004, aimed to strike a balance between supporting Sisters Inside to deliver services and addressing concerns raised by corrective services officers. Protocols were implemented as a direct result of Ms Kilroy's comments, not a result of the Sisters Inside complaint to the Anti-Discrimination Commission Queensland.

Under the protocols all prisoners, including those in protection, the Detention Unit and Crisis Support Unit, are able to nominate to see a Sisters Inside staff member. Posters and information relating to the services and the visiting times, are in place in all accommodation areas. Prisoners place their name on a list which is provided to Sisters Inside for scheduling of appointments. Should a prisoner not be seen on a visit, their name remains on the list and they are seen on the next visit. This process ensures all prisoners are able to have equal access to the services. Women are not denied access by prison administration and are able to self-refer.

The protocols have since been applied to all service providers who visit correctional centres in Queensland. It was determined that having regard to the need to maintain the safety of prisoners, staff and visitors it was inappropriate for any service provider to walk around inside a high security correctional facility in an unstructured fashion.

For Ms Kilroy to suggest that Sisters Inside have been locked out is misleading. To say that access has been modified because a complaint was made to the Anti-Discrimination Commission is simply untrue.

Operation of the Crisis Support Unit:

The majority of the allegations made to the Committee relate to the Crisis Support Unit (CSU) at BWCC.

CSU's are secure facilities that provide low-hazard containment for the protection and promotion of the health of prisoners identified as having an intent to suicide or self-harm or to harm others. In this respect the CSU's are utilised to keep identified prisoners safe and alive. The Department recognises the prevalence of mental illness amongst female prisoners. The 2002 Queensland Women Prisoner's Health Survey revealed that almost two-thirds of female prisoners had received treatment or assessment by a psychiatrist or doctor for an emotional or mental health problem. 21% of the prisoners surveyed reported having self-harmed. The survey also noted that self-harm was associated with the type of offence, with an increased prevalence for violent offences and a decreased prevalence for fraud offences. Because of the prevalence of mental illness and self-harm tendencies, the Department must be vigilant in protecting prisoners from self-harm and providing them with intensive interventions where necessary. CSU's are one way of doing this.

The Queensland Government is committed to a sustained reduction in rates of suicide and attempted suicide across the State. This commitment is supported by the Queensland Government *Suicide Prevention Strategy 2003 – 2008* and *Reducing Suicide: Action Plan 2003 – 2008* and is also reflected in the 2000 *Queensland Aboriginal and Torres Strait Islander Justice Agreement*.

Contrary to what has been alleged to the Committee, a Crisis Support Order (CSO) must be made for a prisoner to be admitted to a CSU. Pursuant to the *Corrective Services Act 2000*, Crisis Support Orders can be made by the person in charge of the correctional facility, if:

- a corrective services officer advises the person in charge that the officer reasonably believes there is a risk of self-harm (s 42(1)(a)); or
- a doctor or psychologist advises the person in charge that the doctor or psychologist reasonably believes the prisoner may self-harm or harm someone else (s 42(1)(b)).

Under the former, the order must not be for a term longer than 5 days or a shorter time it takes for examination by a doctor or psychologist. An order made under section 42(1)(b) can be for a term of not longer than three months. A doctor must examine a prisoner in the CSU after admissions to the Unit and at intervals of not more than seven days.

Section 43 allows consecutive orders to be made. Prisoners have the opportunity to make submissions to the person in charge about anything relevant to the making of consecutive orders. If the term of the CSO is longer than two months, the prisoner may ask the person in charge to review the order (s 44). If a review is sought, a doctor or psychologist (other than the doctor or psychologists who advised on the making of the first order) must review the order and make a recommendation to the person in charge about whether the order should be confirmed or cancelled (s 44(4)).

The conditions under which prisoners are held in a CSU depend on what is deemed necessary to protect the prisoner from self-harm or harm to others, in accordance with section 42(3) of the Act. In some cases, prisoners will be able to attend programs and employment, while in other cases it might be necessary to keep a prisoner confined for significant periods of time.

The CSU in BWCC is housed in an area of the facility formerly known as S4. An investigation ordered by the Director-General in June 2004 found that, at the time of that investigation, properly documented orders existed for all prisoners held in the CSU.

In recognition of the prevalence of self-harm amongst female prisoners and the need for high level support, the CSU at BWCC has a higher staff ratio than those at other facilities.

Contrary to Ms Tanin's allegations, she was placed on a Crisis Support Order on 17 April 2003 for a three month period on the advice of a psychologist to the person in charge.

I note that Ms Tanin has made a number of comments in relation to the existence of cameras in the CSU and the fact that the lights were on constantly. These measures are taken for prisoners' own protection so that they can be observed and prevented from committing acts of self-harm or attempting suicide. I understand that the use of lighting and cameras is a standard practice in correctional centres across jurisdictions and is certainly not used as any form of punishment. The lighting is such that it is sufficient for a corrective services officer to make the necessary observations as to the prisoners' well being with minimal sleep disruption.

Ms Tanin also makes a number of comments regarding the monitoring of cameras by male officers. It is true that male officers are employed in the Crisis Support Unit at BWCC and at times they will be required to observe monitors. Ms Tanin's allegations suggest that the CSU is predominately staffed by male officers. However, the staff gender ratio at the centre is 70% female and 30% male officers. The Department has actively recruited female officers to the BWCC, pursuant to receipt of a formal exemption from the Queensland Anti-Discrimination Commission.

I note a question was put to Ms Tanin by the Chair in the following terms:

"Is it mostly male personnel who do the strip searching?"

I note that Ms Tanin answered in the affirmative. The Department denies any allegation that male correctional officers have been strip searching female prisoners. The *Corrective Services Act 2000* provides that a strip search must be carried out only by a corrective services officer of the same gender as the prisoner (section 27A). Strip searches are only carried out by officers of the same gender as the prisoner and, in the case of female prisoners, out of sight of male officers.

Strip searching is a recognised effective means to deter and reduce the introduction of contraband, such as drugs or materials that could be used to self-harm or harm others. It is conducted in every correctional jurisdiction in Australia. Queensland's legislation and procedures relating to strip searching take into consideration the dignity of the prisoner by providing clear principles and safeguards and are designed to minimise embarrassment to the prisoner.

Section 8(4) of the *Corrective Services Regulations 2001* provides that a strip search must not be carried out in the view of anyone who is not actually carrying out the search. Section 8(5) states that if a video camera monitors the area where the prisoner is being searched and a person viewing the monitor is not an officer of the same gender as the prisoner, the monitor or camera is to be turned off or the search is to be conducted out of view of the camera.

The Department takes these legislative requirements very seriously. Any officer found to be acting in breach of the legislation in relation to the treatment of prisoners will be dealt with appropriately.

Allegations of the mistreatment of Michelle Tanin:

Ms Tanin was held at BWCC between 20 March 2003 and 29 May 2003. During part of this time she was also detained in the Crisis Support Unit. As is stated above, Ms Tanin was placed on a Crisis Support Order pursuant to the *Corrective Services Act 2000*. Ms Tanin was placed in the CSU for her own safety as she was assessed as a high risk of self harm and displayed suicidal intent.

Ms Tanin makes allegations that she was assaulted by staff on or about 20 April 2003. She has also previously alleged that she was assaulted by staff on 9 May 2003. The Department acknowledges that some incidents did occur during Ms Tanin's accommodation in the CSU because of her unstable behaviour. However, I can advise that her allegations were referred to the Crime and Misconduct Commission, were fully investigated by the Queensland Police Service and were found to be without substance. After Police had fully investigated both incidents they concluded that there was no evidence to support Ms Tanin's allegations of mistreatment.

Video footage of one of the incidents was obtained and viewed by investigating Police. After viewing the footage the Police in their report commented that: "*There is no sign of excessive force used by any of the officers...*". No video footage was available in relation to the other incident as Ms Tanin had made a complaint some time after the incident and as such the video footage had been recycled.

Police attempted to interview Ms Tanin in relation to the 20 April incident in July 2004 (after she had been discharged from custody). However, she refused to cooperate and the interview was terminated by Police due to what was described as Ms Tanin's "*aggressive nature*". The Police then proceeded with the investigation based on a hand written statement Ms Tanin had previously made. It is interesting to note that Ms Tanin is now making statements in relation to an alleged incident of 20 April 2003, when in July 2003 she would not cooperate in the investigation of the matter.

Having regard to the matters stated above, the Department of Corrective Services does not accept Ms Tanin's allegations. These matters have been fully investigated and found to be unsubstantiated. In all the circumstances it is the Department's view that Ms Tanin's version of events and her allegations are not credible.

General Comments:

The correctional system in Queensland operates in an open, accountable and transparent manner. It is strictly regulated by legislation and open to scrutiny by a range of internal and external stakeholders. Prisoners have an array of complaint mechanisms should they wish to lodge a complaint, including the "blue letter" system (where complaints can be lodged directly with the General Manager, Director-General or Minister); the Ethical Standards Branch; the Official Visitor; the Ombudsman; the Crime and Misconduct Commission; the Prisoner's Legal Service; Legal Aid Queensland; and the Anti-Discrimination Commission Queensland.

In addition, the department has recently appointed a Chief Inspector, whose role it is to review correctional facilities and/or services, to ensure that prisoners are being managed in accordance with best-practice correctional standards. The Chief Inspector is independent and reports directly to the Director-General.

It should be noted that every allegation made by Sisters Inside has been investigated by the Department. The most significant raft of allegations, as contained in the Sisters Inside submission to the ADCQ, resulted in a high-level investigation in which Ms Kilroy herself participated. No evidence was found to support the allegations.

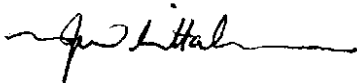
I note that at page 84 of Hansard, Ms Kilroy, in relation to this investigation, states: "...their report said very clearly that...Indigenous women could not be relied on anyway, because they are Indigenous". This statement is simply untrue – nowhere in the report in question is this statement either made or implied.

The Department of Corrective Services reviews practices and procedures regularly to identify possible areas for improvement. These are important steps to ensure that Queensland maintains a humane, secure corrective services system that provides intervention programs and other opportunities for prisoners to reduce their risk to the community and increase their potential for successful community reintegration following discharge.

Please do not hesitate to contact me on 3239 3929, if you require any further information in relation to this matter. Further, I would be more than willing to arrange for any member or delegate of the Committee to visit the Brisbane Women's Correctional Centre if they wish.

I trust this information is of assistance.

Yours sincerely



Neil Whittaker
Acting Director-General

Ref: F/05/02004

cc Senator Lyn Allison
Senator Gary Humphries
Senator Michael Forshaw
Senator Claire Moore
Senator Nigel Scullion
The Honourable Judith Troeth
Senator Ruth Webber