

# The Inspector's Overview

## BANKSIA HILL, A FACILITY IN FUNDAMENTAL TRANSITION

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### CONTEXT

Banksia Hill Juvenile Detention Centre is in the midst of a fundamental transformation. At present, it houses only young men and boys, primarily those who have already been sentenced. It is the responsibility of a separate facility, Rangeview Remand Centre, to receive and house young people when they first enter custody following arrest by the police or after being remanded in custody or sentenced by a court. Sentenced males and selected male remandees are subsequently transferred to Banksia Hill. All young women and girls – whether they are under arrest, on remand or sentenced – are housed at Rangeview.

In mid-2012, upon completion of a major expansion, Banksia Hill will become the sole juvenile detention centre in Western Australia. It will then be responsible for housing male and female children of all ages (generally between 10 and 17 years of age, but including some who are already 18), from all parts of the state, both sentenced and remand. Rangeview will cease to function as a juvenile facility and is to be remodelled as a privately-operated facility for young men aged 18 to 25.

Only time will tell whether the decision to manage such a diverse group in a single institution in Perth is the best choice, but it certainly presents some opportunities for positive improvements in the youth custodial system. For example, it should be possible to provide a more integrated and holistic approach to detainee management in general, and a much more protected, nurturing and positive environment for young women and girls in particular.

The redevelopment of Banksia Hill will also bring some economies of scale but it will be critical to ensure that sufficient human resources are in place. This is already a matter of some concern to this Office given that staffing shortages at both Rangeview and Banksia Hill have been impacting on services.<sup>i</sup> The redevelopment also provides the opportunity for Rangeview to offer 'something different' for young adult male offenders. Obviously, however, the physical and cultural changes which accompany these developments bring significant challenges for both staff and children at the two Centres.

### SCOPE, METHODOLOGY AND THE INSPECTOR'S 'AUDIT FUNCTION'

The Office of the Inspector of Custodial Services (OICS) is obliged to conduct formal inspections of places within its jurisdiction at least once every three years, and to report to Parliament on those inspections. However, as Banksia Hill was in the midst of redevelopment and cultural change during 2011, we modified our normal methodology. The aim was to reduce disruption to the Centre but to ensure that we fully fulfilled our statutory obligations. We therefore chose to target some areas which had been of special concern at the 2008 inspection<sup>ii</sup> or which had emerged through our regular inspection visits over the intervening period. We ensured, too, that we had a sufficient on-site presence and undertook a range of other enquiries, so that any other issues which emerged could be included in this report or raised with management during or after the inspection.

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i See below and throughout this report.

ii OICS, *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 58 (December 2008).

Although this Report does not examine all of Banksia Hill's operational areas, we have been actively contributing to and monitoring its development as a consolidated 'one-stop' facility. We will conduct another full inspection after it has had a suitable time to 'bed in', probably in the first half of 2013. Likewise, Rangeview, on which we last reported in December 2010,<sup>iii</sup> will be formally inspected within a reasonable period of opening as the Young Adult Facility. We also recently conducted a positive evaluation of the revised arrangements for transporting juveniles from regional and remote areas.<sup>iv</sup>

On 18 January 2012, legislation came into effect which empowers OICS to conduct audits of the treatment of groups of prisoners, juvenile detainees and people in court custody centres or undergoing transport. This new audit function gives us the scope to undertake additional work on areas of concern or by way of routine monitoring. Audit activities will sometimes be undertaken as a discrete exercise but they can also be conducted as a complement to an inspection. One area which has concerned us for some time has been the use of what is called 'regression' to manage adolescent misbehaviour at Banksia Hill. As a discrete but parallel exercise, we therefore conducted a detailed audit analysis of regression and have chosen to report on the audit as part of this report rather than separately.

#### INCREASING NUMBERS IN DETENTION

In addition to coping with physical redevelopment and cultural change, Banksia Hill has needed to handle an increasing number of detainees over the past three years.<sup>v</sup> During 2009, numbers reached three figures on relatively few occasions and, on average, the population was closer to 90. During 2010, numbers quite frequently exceeded 110, rarely dropped below 100 and averaged around 95. By 2011, numbers were rarely under 110 and quite frequently exceeded 120, averaging around 115.

Banksia Hill's increasing numbers reflect the fact that the total number of children in detention has risen substantially over the same period. In 2009, the average was around 150. In 2011, it was consistently over 185 and not infrequently exceeded 200. An all time population peak of 227 was reached on 27 April 2011.

Staff and management are to be commended for handling these increased numbers but they raise some obvious questions about whether the new Banksia Hill will have sufficient capacity and sufficient resources. The total number of standard beds in the redeveloped facility will be 210.

If the current growth in detainee numbers continues, it is likely that this number of children will regularly be in detention within a fairly short period of time. But it must also be remembered that, given the multiple roles which Banksia Hill must play, it is not a simple 'beds vs heads' equation. Of the 210 beds, eight are reserved for those regressed due to poor behaviour, and 14 for those who attain self-care status. Thirty six beds are reserved for female detainees, including four of the self-care beds. Given these constraints and

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iii OICS, *Report of an Announced Inspection of Rangeview Remand Centre*, Report No. 69 (December 2010).

iv OICS, *Report of a Review of Regional Youth Custodial Transport Services in Western Australia*, Report No. 74 (October 2011).

v The numbers are calculated from the Department of Corrective Services' Weekly Offender Reports. These are available at [www.correctiveservices.wa.gov.au/about-us/statistics-publications/statistics](http://www.correctiveservices.wa.gov.au/about-us/statistics-publications/statistics).

reservations, it seems almost inevitable that parts of the Centre will be operating above capacity from the time it opens.<sup>vi</sup>

It is to be hoped that important new regional youth justice initiatives, which are designed to reduce the number of children detained in Perth,<sup>vii</sup> coupled with initiatives in the metropolitan area, will have the desired effect of reducing the number of children in custody. In the meantime, it is understood that half of the new cells being constructed are being wired and fitted out to facilitate the installation of double-bunks, and that upper bunk frames are on hand to be installed at short notice.

## REPORT FINDINGS

### General Findings

Most of the findings of this report are positive. First and foremost, there was a noticeably marked improvement in the overall climate and atmosphere at the Centre compared with 2008, and it was well-controlled and relatively calm. However, the inspection also identified a number of significant issues which need to be addressed. Some of the more straightforward matters have already been tackled locally, and there has been a very positive response to a number of others, including improvements to the orientation of children into the Centre.

However, in some areas, the response to recommendations is less than satisfactory. For example, the reality is that children in detention are subject to being ‘locked down’ in their cells or units far more frequently than is the case at adult prisons. In response to our recommendation that the number of scheduled and unscheduled lockdowns be reduced, the Department of Corrective Services says that there is no alternative given existing resources, that all lockdowns are kept to a minimum, and that security and safety needs are paramount.<sup>viii</sup> This Office does not suggest that safety or security should be compromised, but firmly believes the current use of lockdowns is excessive and that the necessary resources should be found to at least bring practices in line with adult prisons.

### Detainee Discipline and Regression

As noted above, the use of regression has been a matter of concern to OICS for some time. Regression is officially badged as a targeted and individualised regime for improving behaviour. Legally, it sits separately from the rules relating to the ‘punishment’ of detainees for detention centre or criminal law offences. However, we found that it involves a restrictive regime which is in many respects indistinguishable from formal punishment, and generally of longer duration.

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vi For example, if the female beds are discounted, there are 174 cells for males. Eight of these are for regression (and it is to be hoped that they are not often full). It is also possible that not all of the male self-care beds will be filled. Given the numbers in detention over the last two years, it is therefore very likely that there will be fewer male cells than there are detainees. In such cases, the Centre will be forced to add bunk beds or to accommodate them on the floor of other cells or in holding cells, multipurpose cells, observation cells or medical cells.

vii See [www.correctiveservices.wa.gov.au/youth-justice/regional-youth-justice](http://www.correctiveservices.wa.gov.au/youth-justice/regional-youth-justice).

viii See Recommendation 3 below.

As the audit proceeded, it became clear that it was impossible to understand regression without analysing its use alongside other forms of detainee discipline. This report fully acknowledges the difficulties that staff face in dealing with some of the young people at the Centre. And it notes that staff usually, and quite appropriately, will try to resolve matters at the lowest possible level, rather than escalating them to formal charges or regression. However, we have made a number of negative findings with respect to the operation of regression and related disciplinary matters. The main findings and areas of concern include the following:

- Very poor documentation and record keeping made it impossible for us to be satisfied that there had been full compliance with the rules governing regression. When children are detained, and especially when they are detained in highly restrictive conditions, it is absolutely essential – for the protection of staff as well as detainees – that there is full and careful documentation.
- Formal detention centre charges (for which the *Young Offenders Act 1994* provides very clear procedures, requirements as to proof, and limitations on the extent of punishment) are rarely used. However, regression, which has far looser requirements and limited legal protections, is frequently used. This is of particular concern given that, in impact, regression can be more restrictive and intrusive than formal punishment.
- The use of short periods of regression and of identical *proforma* documentation is inconsistent with the argument that regression constitutes a genuinely ‘individualised regime’ for the detainees in question.
- Staff resources are not adequate to allow staff to ensure that legal exercise requirements are met, or to provide sufficient constructive activities or individual behaviour therapy.
- Inconsistencies within the governing legal documentation.
- Inconsistent views amongst staff and management about the use and aims of regression.
- Whether there is a sufficiently robust response to bullying and alleged assaults.
- An overuse of confinement of detainees following involvement in minor incidents.

These, and a number of other specific findings, led us to make no fewer than eleven recommendations on the management of detainee misbehaviour and regression. Most of these recommendations have been supported in full or part by the Department. It has also indicated in its formal responses to this report that some major reviews and changes are already in progress. In addition, we have been informed that documentation is being improved. As part of the next inspection of Banksia Hill, we intend to conduct a follow-up audit to examine progress.

## CONCLUSION

Banksia Hill will face numerous challenges as it moves to become a multi-function, all-gender facility, not least in terms of whether its capacity will be able to match demand, without resorting to widespread double bunking of cells designed for one. However, in terms of culture and ‘temperature’, the Centre is certainly much better placed to take on this role than it was three years ago, and the timing is good for a comprehensive review of the concerns raised in this report.

Neil Morgan  
18 January 2012