Inspector's overview

Thermal conditions in cells: time for action at high risk sites

Mr Ward's death

The 2008 heat-related death of Aboriginal elder Mr Ward in a prisoner transport vehicle highlighted the safety risks that can arise from extreme temperatures. The Coroner described Mr Ward's death as a 'terrible death' which was 'wholly unnecessary and avoidable'.[1] He pointed out that my predecessor's warnings in relation to the transport of people in custody had been ignored and that 'it was only following the death and the attendant glare of publicity that the Department [of Corrective Services] took positive steps'[2] to improve the situation.

This shocking event, and the systemic failings that it revealed, rocked the justice system to its core. It prompted the Department to completely overhaul prisoner transport in Western Australia, and also to spearhead the development of national standards for prisoner transport. Western Australia acquired a new fleet of air-conditioned vehicles with electronic temperature alarms, there was increased use of alternative methods of travel and there were widespread reforms to standards and procedures.

Why this review?

In consequence of Mr Ward's death, the *Inspector of Custodial Services Act* 2003 was amended to allow this Office to conduct reviews of specific aspects of custodial services, especially those relating to safety, welfare and decency of treatment. Given the genesis of these review powers, thermal conditions in cells was an obvious choice for a review.

I have long been concerned that the development of local and national standards for transport did not trigger a sharper focus on climate control in prisons. These concerns escalated in 2013, when we conducted an inspection of Roebourne Regional Prison (Roebourne). The Department rejected a recommendation to install 'suitable climatic controls to reduce air temperatures and to increase cool air circulation in prisoners' cells'. This was the very same recommendation that it had supported in 2010, but on which it had never taken remedial action. The Department also stated in 2013-2014 that climate control in its facilities was of 'low relative priority' and air-conditioning was an 'issue for the future'.[3]

The Department provided no evidence to justify such a dismissive and non-committal stance, or its own change of position. It had not conducted any systematic research into

[1] Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Mr Ward, Coroner's Court of WA (12 June 2009) 5.
[2] Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Mr Ward, Coroner's Court of WA (12 June 2009) 105.
[3] OICS, *Report of an announced inspection of Roebourne Regional Prison*, Report No. 89 (February 2014).

cell temperatures and its position also appeared to be at odds with what was happening elsewhere in the system. The new Eastern Goldfields Prison set the standard that cell temperatures should be in the range of 18-30°C. West Kimberley Regional Prison's climate control system has been set at 26°C. Air-conditioning has also been installed in some parts of Roebourne and, in the aftermath of the January 2013 riot, at Banksia Hill Detention Centre.

It is obvious from basic meteorological data that Roebourne can be ferociously hot, it is obvious that it is not getting any cooler, and it is obvious that cell temperatures can be far in excess of the Department's upper standard for Eastern Goldfields Prison of 30°C.

Often when the temperature of prison cells is discussed, comparisons are made to living conditions in the community and the observation that many people live without air-conditioning. However, the majority of Roebourne's prisoners are locked overnight in cells that are not air-conditioned and that do not have showers, and the Department itself has said that temperatures in the prison can reach 50°C.[4] It is not possible for prisoners to seek a cooler environment and they have very limited ability to modify their behaviour to mitigate extreme temperatures. Prisoners also have a higher rate of chronic health conditions and prescribed medication use that increases susceptibility to temperature extremes as compared to those living in the community.

It is therefore illogical, erroneous and risky to suggest that prisoners should not be in appropriately climate controlled environments. When discussing this report with the Department, it was also said that, after receiving our report, the matter was discussed with some individual staff at Roebourne who said they did not find the heat as bad as they had expected when they first moved there. Again, this is an erroneous comparison: the staff areas at Roebourne prison are air-conditioned, staff are not confined in crowded cells at night, and their homes (usually government-provided) have air-conditioning. Over the years, many staff, as well as prisoners, have also raised heat-related risks with us.

What we found

Although Roebourne was the primary trigger for this review, we have also been concerned about a number of other sites. And while our greatest concern is heat, cold temperatures also pose risks. For example the level of condensation, especially in shared cells, can be so high that it leads to mould on walls and even on bedding.

We engaged experienced researchers from Curtin University to help us to chart the thermal conditions in cells and to evaluate the potential for temperature related ill-health. Temperature and humidity monitors were placed in cells at four prisons (Roebourne, Karnet, Bandyup and Albany) during a week in either the summer or

[4] Department of Justice, 'W*A Prisons Role and Function Profile*' (May 2003).

winter. Although it is unlikely that we captured the upper and lower extremes of temperature and humidity, the results were concerning, and corroborated our concerns.

Roebourne

Roebourne is located in one of the harshest climatic parts of Western Australia, and is constructed from inappropriate building materials that absorb heat during the day and radiate it at night. Metal cyclone shutters in the cells further radiate heat and create air flow problems. Most cells at Roebourne are not air-conditioned, and we have repeatedly expressed concerns about the 'intolerable and inhumane'[5] conditions.

The temperatures we recorded at Roebourne were not simply uncomfortable; they demonstrated a significant threat to prisoner health. The non-air-conditioned cells rarely recorded temperatures below 30°C and attained temperatures close to 40°C. The average night-time temperature in non-air-conditioned cells at Roebourne was 33°C, with temperatures consistently exceeding 35°C in the few hours prior to midnight, a time when prisoners would be attempting to sleep.

Prisoner transport vehicles elicit an alarm when temperatures exceed 33°C, but there is no such monitoring or alarm for the prisoners at Roebourne who are unremittingly exposed to such conditions during the warmer months. Our inspection reports have also noted that even simple mitigation measures (such as allowing prisoners to eat their meals and spend more time in air-conditioned areas such as the dining room in the hottest months) have not been actioned.

Karnet

Concerning temperatures were also recorded at Karnet Prison Farm in the summer. While average temperatures did not reach the extremes of Roebourne, considerable temperature differences were observed between brick constructed cells and the prefabricated transportable 'donga' accommodation. In the middle of the day the donga cells were up to 6°C hotter than brick constructed cells, attaining maximum temperatures close to 39°C. While dongas have been used by the Department as a quick and cost-effective solution to the expanding prisoner population, these results demonstrated that they are ineffective at mitigating temperatures.

Bandyup and Albany

Bandyup Women's Prison and Albany Regional Prison were assessed in the winter. The temperature recordings indicated that winter temperatures did not present the same acute risk to prisoner health. However, winter temperatures were undoubtedly uncomfortable, and in some cases resulted in hygiene, safety and security issues.

[5] OICS, *Report of an announced inspection of Roebourne Regional Prison*, Report No. 70 (February 2011).

In Bandyup's decrepit Unit 1, the cold conditions were compounded by poor ventilation and high humidity. Cell observation windows have been observed to steam up and prevent prison officers from performing observation checks.[6] Prisoners in other accommodation units also reported difficulties keeping warm, with prisoners in self-care accommodation leaving ovens on at maximum temperatures during the day in an effort to warm their house. This Office is aware of two oven doors exploding in the winter of 2014 due to this practice.

General conclusions

Some older Departmental facilities are ill-equipped to tolerate the temperature conditions of today and are unlikely to cope with any increase in temperature extremes due to climate change.

The conditions experienced at older facilities such as Roebourne and Bandyup present a stark contrast to newer facilities such as West Kimberley Regional Prison, which commendably has been designed in a manner that is appropriate for the climate and ensures the maintenance of acceptable temperatures. As a result, a two-tiered system of accommodation quality exists in Western Australia, where some locations present a higher risk to prisoner health than others due to their inadequate temperature mitigation.

Cell temperatures are influenced by a variety of cell design and construction factors of varying effectiveness and cost, such as shading, cell occupancy and air-conditioning. Air-conditioning is the most effective measure to maintain temperatures. Among the publicly run facilities, only Banksia Hill Detention Centre and West Kimberley Regional Prison have air-conditioning to all cells. However, a Heating, Ventilation and Cooling (HVC) system provides climate control to all cells in the privately run Acacia Prison while the majority of cells in the privately run Wandoo Reintegration Facility are air-conditioned.

Policies and procedures are also lacking. For example, there is no formal identification of prisoners who are heat sensitive, such as those receiving medications that can increase vulnerability to heat stroke. In the absence of policy, prisoner management decisions are made locally. There is some merit in allowing local responses to local problems, and staff deserve credit for their management of prisoners in difficult conditions with limited resources. However, the lack of policies (such as using common air-conditioned zones at times of excessive heat) means that too much can depend on local whim or will.

More generally, the lack of policies and standards undermines the Department's duty of care to provide a safe environment for prisoners. It is acknowledged that it is difficult to develop temperature standards given the lack of international or Australian guidelines. Nonetheless, temperature standards need to be developed in consultation with local

[6] OICS, *Report of an announced inspection of Bandyup Women's Prison*, Report No. 73 (August 2011).

prisoners, staff and relevant experts so that appropriate climate control requirements can be determined *and enforced* for each facility.

Moving forward

Discussions with the Commissioner have proved productive and the Department has committed in follow up correspondence to a combination of measures to progress the recommendations. At Roebourne in particular, immediate measures such as shade structures, misting fans and measures to improve airflow and ventilation will be implemented.

However, the Department has no consistent statewide standard for the installation of air-conditioning and has not committed to installing air-conditioning at Roebourne or other 'hot-spots' such as the Karnet dongas. While it is acknowledged that air-conditioning is a costly form of temperature control, especially if buildings require extensive retrofitting, the financial cost of any heat-related death or serious injury would also be very high.

I do not resile from the view that air-conditioning should be installed in prison facilities where acceptable temperatures cannot be maintained using cheaper methods. We will continue to monitor thermal conditions at prisons where extreme temperatures exist, and both the implementation and impact of the Department's proposed remedial measures. As I have said before, and as the Ward case showed, if the State is to adequately meet its duty of care, 'adequate climate control is a necessity not an option.'[7]

This report also revealed that the Department lacks the evidence base which it needs to understand its risks and to assess the optimal remedial measures. I hope that this review will lead to regular and routine monitoring of thermal conditions, and the development of criteria based on factors such as temperature, humidity, vapour pressure and air movement. Where conditions fall outside the acceptable criteria, policies and procedures should be developed to alleviate risk to both prisoners and the State.

Western Australia was a national leader in developing policies and standards for thermal conditions in custody vehicles. This is an opportunity for the Department to take the national lead again.

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[7] OICS, *Report of an announced inspection of Roebourne Regional Prison*, Report No. 70 (February 2011) v; *Report of an announced inspection of Roebourne Regional Prison*, Report No. 89 (February 2014) viii.