

Inspector's Overview

BROOME REGIONAL PRISON: UNFIT FOR PURPOSE AND IN URGENT NEED OF INVESTMENT AND A PLAN

Broome Regional Prison (Broome) is old, decrepit and crowded. It is not fit for purpose as a modern prison. Broome is by far the largest town in the Kimberley, and the hub for regional courts, hospitals and other services. It needs a custodial facility but the existing prison is all it will have for the foreseeable future.

This report of an inspection in March 2017 shows that four things are needed:

- significant capital investment to bring the physical infrastructure up to a humane standard
- significant investment in human resources
- improved regimes for prisoners
- a plan and timelines for custodial facilities in the Kimberley.

In response to our inspection, the Department of Justice (as it now is) has taken steps to improve the situation, but it is important to maintain the focus. Too often, Broome has experienced bouts of enthusiasm that have not been sustained.

THE PRICE OF POOR PLANNING

The poor state of Broome prison reflects a decade of uncertainty and poor planning.

In 2007, after an extended consultation period, the government announced that the new West Kimberley Regional Prison (WKRPP) would be in Derby, not Broome. Given feedback from Aboriginal communities, that was a reasonable decision, and WKRPP is a well-designed, well-performing facility.

But the courts are in Broome, 220 kilometres from Derby, and Broome has always received large numbers of local men and women. It was obvious that an appropriate custodial facility was still required there to service the courts, and to house prisoners in transit or using medical services in the town.

Unfortunately, the Department of Corrective Services (as it then was) left Broome to drift. Its 'plans' were sketchy, poorly documented, and inconsistent. They included simply closing Broome when WKRPP opened; managing it to closure over a longer period while new arrangements were put in place; and, most recently, keeping it open indefinitely.

Although it is clear that a custodial facility is needed in Broome, the government has made it clear that there is no money for a new facility. And even if funding for a new facility was approved today, it would be 3–5 years before a new facility could open. This means that the existing prison will have to remain open for the foreseeable future. However, this will require significant capital upgrades, and a commitment to ongoing maintenance.

RESPONSE TO OUR INSPECTION

At the end of an inspection, we brief local and head office staff on our initial findings. A copy of the debrief is then provided to the Minister and the Department.

I am pleased to report that, after hearing our concerns, the Department moved quickly to

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address many of the more significant matters. Their actions have included:

- seeking urgent capital infrastructure funding from government
- maintaining Broome's numbers below its design capacity through an increase in beds at WKRP
- undertaking a number of infrastructure upgrades to improve the maximum-security building, women's building, administration building, and kitchen facilities
- progressing a new staffing agreement which is now going through the final approval process and will include a Business Manager, Security Manager, Cashier, and Assessment Writer.

Further information on these changes can be found in Appendix 4.

UNACCEPTABLE CONDITIONS IN THE MAXIMUM-SECURITY UNIT

The male maximum-security unit of the prison was the area most in need. When we inspected the prison in March 2017, conditions in the unit were the worst in the state.

The unit housed both medium and maximum-security prisoners. The majority were on remand. Others were returning to Broome for release or in transit to other prisons.

The unit was overcrowded and degrading. Numbers regularly exceeded 35, even though there were only seven cells and 28 beds. The extra people had to be squeezed into the already-crowded cells on mattresses on the floor. There was also little communal space in the unit.

Conditions as a whole were degrading: no personal space, minimal physical activity, potential contact with vermin, poor quality mattresses, grimy surfaces, minimal mental stimulation, and no visual stimulation. Prisoners were confined to the unit for 24 hours a day.

We were told that prisoners were only supposed to be held there for very short periods of time. This was not the case. At the time of the inspection, five men had been there for over 90 days, and another three for over 60 days. It was hardly surprising that staff and prisoners both felt that prisoners' physical and mental condition was suffering.

The only alleviating factor was that almost all of the prisoners were Kimberley men, 'in-country' with fellow countrymen. They showed remarkable grace and tolerance of conditions that would not be accepted in Perth. But even their goodwill was wearing thin.

MINIMUM-SECURITY MEN NEED MORE OPPORTUNITIES

Ten years ago, Broome provided a constructive regime for its minimum-security men, with opportunities for education, employment, and work for approved prisoners in the community. We found that had fallen away and needed to be reinvigorated.

The facilities in the minimum-security section of Broome were much better than the maximum-security unit, and prisoners were unlocked for at least 15 hours each day.

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However, there were few work opportunities and no education, programs, or skills development opportunities. The daily routine for most prisoners was one of boredom. This needs to be improved.

It is disappointing that in its formal responses, the Department has said that it will not provide structured education programs and has offered only lukewarm support to providing better work opportunities (see Recommendation 11). Their argument is that Broome is 'predominantly a short-term remand facility'.

The prison does have a high rate of remand prisoner receptions and 'turnover', and this drives many of its daily operational challenges. However, we do not agree with characterising Broome as a predominately short-term remand facility. On any given day, over half the male prisoners held inside the prison are in fact minimum-security sentenced men. Broome is also responsible for around 17 minimum-security men at Wyndham Work Camp.

On a positive note, the Department has started to improve the flow of prisoners to the Wyndham Work Camp and has streamlined approval processes for prisoners seeking a work camp placement. The camp cost almost \$8 million to build and has a capacity of 40, but has been severely under-used. I am pleased to report that the number of prisoners at Wyndham has increased since March. It currently holds around 17 men. This is still well-below capacity but this is a promising start.

POOR REGIMES FOR WOMEN

While not as bad as the facilities in the men's maximum-security unit, facilities for women at Broome were poor. The women had no access to active recreation, despite a recreation yard adjoining the unit and there were the limited work opportunities within the unit.

The women had to have visits in their unit courtyard. The courtyard is unsuitable for visits as it has no visitor amenities, no play equipment, and no activities for children.

Although women are generally held in Broome only for short periods, we have recommended the Department "improve services and conditions for female prisoners at Broome" (Recommendation 13). The Department has accepted this 'in principle' but has not committed to any action.

THE KIMBERLEY STILL NEEDS A PLAN

Despite these improvements, I am still concerned at the lack of long-term planning for the Kimberley's custodial needs. These include the East Kimberley. Our concerns date back many years. In a 2015 report on Broome and WKRP (OICS, 2015b), I wrote that:

... Some of Broome's problems reflect its physical infrastructure and history, but most come back to the failure to properly plan five years ago for how it would deliver some essential custodial services (including to the Broome courts) ...

Recommendation 19 of that report was that:

The Department must finalise its planning for the closure of Broome Regional Prison and for the future of custodial corrections in the Kimberley, including genuine consultation with stakeholders and communication with its staff.

The Department supported the recommendation and claimed it was already addressing the matter. But three years on, there is still no plan. As a result, people are still housed in inhumane conditions in Broome, and large amounts of money are spent flying prisoners from the East Kimberley to Broome, often for short stays. We have therefore recommended that the Department:

Develop and implement a sustainable and cost-effective solution for managing East Kimberley prisoners (Recommendation 2).

It has again supported the recommendation. I hope this leads to outcomes this time.

FUNERAL ATTENDANCE IS A SOURCE OF FRUSTRATION AND DISTRESS

Aboriginal prisoners do not believe the Department has sufficient understanding of the relevance of Aboriginal law, cultural obligations, and extended family groups to funeral attendance. This report includes the example of a prisoner who submitted an application to attend the funeral of his great-grandfather.

Local staff and management reviewed his situation and produced a strong argument recommending he attend the funeral. The prison demonstrated that he had a strong kinship and cultural relationship with the deceased. He was a well-behaved minimum-security prisoner, cleared to work in the community, and due for release two days after the funeral. There was minimal risk, and the prison offered to undertake the funeral escort.

Head Office refused the application because the relationship did not meet its definition of 'immediate family' in Policy Directive 9 (PD9). The prisoner's cultural and kinship ties to the deceased were not considered. In response to our draft report, the Department said that 'the prisoner was advised of his rights to appeal however chose not to. In accordance with PD9, his cultural and kinship ties are only able to be considered at this point.'

This case reflects the findings of our recent review of 'Access to funerals and other compassionate leave for people in custody in Western Australia' (OICS, 2017). In our view:

- the PD9 definition of immediate family is too restrictive, and does not reflect Aboriginal cultural reality
- consideration of culture and kinship should form part of the initial assessment. In cases such as this, the Department has all the information it needs at the time of initial assessment. Adding another layer of bureaucracy by way of appeal is not necessary nor useful
- as in this case, prisoners may well give up on receiving a rejection, and not appeal

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- in many cases, by the time an appeal is decided, it may be too late to facilitate attendance.

Obviously, it is not possible for everyone who wishes to do so to attend a funeral. Prisoners are fully aware of that. But the PD 9 criteria and processes impact disproportionately on Aboriginal people. The Department is keen to increase its credibility with Aboriginal people. Revising funeral attendance rules and processes would be a good starting point.

Neil Morgan
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