

15 February 2024

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Tēnā koe Janis

Re: Report of the Independent Inquiry into the Waikeria Prison Riot

This letter seeks to update you with the six monthly progress report against recommendations in your Report of the Independent Inquiry into the Waikeria Prison Riot. As you will recall, in August 2023 we wrote to you having considered the report and the recommendations and having assigned time frames to the recommendations.

Corrections considered the findings and associated recommendations and accepts 117 of the 121 recommendations in full, partially accepts one recommendation (number 38) and does not accept three recommendations (numbers 24, 59 and 90), the rationale for which is contained in the previous correspondence to you in August 2023.

Progress against Recommendations

Corrections is making progress towards the 118 accepted and partially accepted recommendations:

- 16 recommendations are now considered completed.
- 34 further recommendations have been considered completed by system leads, pending assurance.
- 49 recommendations have been marked as 'underway'.

A dashboard of the progress against the recommendations that we have scheduled to be completed by June 2024 is attached. Future updates will expand the dashboard to all of the recommendations and their status in more detail, with the next timeframe for delivery of longer term actions being June 2025. Many of the recommendations falling to this timeframe are already underway or next steps are recorded in order to progress the work.

You will note that we have grouped the recommendations into sections in the dashboard, and we have followed the same groupings for the detailed updates below.

Monitoring and assurance:

The Department has established a supported decision making framework for prisoner placement and a Prisoner Placement Assessment Form (7) which helps to inform the placement of Transnational Organised Crime (TNOc) prisoners through a TNOc Placement Meeting. There is also a TNOc Governance Meeting to provide general oversight, guidance and support for prison sites and communities who manage these individuals and groups.

Gang management plans in their current form have been reviewed and found to be unfit for purpose – they are essentially obsolete in the current approved template that was released in 2018, and there is no current consistent approach across sites to have a strategic plan in relation to gangs. There has

been discussion about adding gang information and approaches to the current violence and aggression site plans, however this decision has not been formalised and implemented as yet, and the Violence and Aggression work programme is finite. A further update on the three actions relating to gang management (8,9) will be supplied in the next update to you in August 2024

Complaints (13, 14): A Complaint Support Lead pilot is operating at CWP and HBRP, which includes supporting those sites to process and action complaints within procedural time frames. On completion of those pilots, Corrections will consider the national model for Complaint Support Leads across all sites. Posters about the complaints process have been created in multiple languages and forms modified, however final assurance will be in the form of 'Complaint Lead' roles at each site being funded and in place.

Clinical Governance for Health/ Pae Ora (112) has been developed and future proofed for Te Ara Whakamua changes. This new Governance format sits alongside a new Oranga Framework to strengthen decision making at Governance level. The new Governance group will be introduced in line with the 1 April 2024 changes and assurance will take place following implementation.

Infrastructure

Master control (33) at the new Waikeria build will comply with the standard of having master control as part of the prison perimeter, rather than in a main building where there is also cell accommodation. The opportunity to have an alternative electronic storage location so that information remains accessible in the event that master control is unavailable is possible but would require an architectural change to the solution. This will be explored with the internal architecture team with some thought consideration as part of the inflight Electronic Security and Associated Services (ESAS) procurement exercise. Therefore, this recommendation remains open until these discussions have taken place and a solution proposed.

The exploration of secure online options for the storing of information (91) has been added to a programme of work called the "Information Management Programme". This programme will also add to scope the review of physical storage solutions (92) and the review of where back up files are kept and stored (93) and seed funding has been approved for a discovery phase for these storage solutions.

Professional Practice and Capability uplift

The recommendations relating to the correct processes for the placement of prisoners and the mixing of remand prisoners (5, 6) are underway 9(2)(h)

The recommendation that relates to handcuffs and compliance with legal frameworks (10) has been sent for assurance, with guidance having been developed. The Chief Custodial Officer has requested assurance that the guidance (sent to Prison Directors) is being followed. When there is an ongoing process for assurance, this recommendation will be completed.

Access to sufficient, clean, clothing and bedding (17) is the responsibility of each Prison Director and practice guidance relating to this was also sent to the Prison Director group in October 2023. National management of clothing means that there is always sufficient supply available.

Consistent responses to poor prisoner behaviour (21) is a recommendation that will be transferred to the National Manager Capability - Custodial so that conversations about challenging behaviour and responding to it will become part of basic learning within the Corrections Officer Development Pathway (CODP). A further update on how this is being embedded will be supplied at the next due

date. Similarly, we have reviewed the existing training for first responders in relation to identification and escalation of disorder events (22) and a module on this will also be introduced to CODP as an aspect of basic training.

Practice reminders have been sent to Prison Directors about the razor policy (28), which has been reviewed and considered fit for purpose. How to ensure ongoing assurance of compliance with this policy is being thought through.

Firefighting capability and training (36) is underway and current capability is being assessed externally and the results of this will be supplied to the department to determine next steps.

In relation to the decisions around who should undertake Operational Reviews, these will be considered regarding any conflicts of interest arising, and in particular whether there are conflicts noted where a responder then becomes a reviewer. It is likely that the commissioning of reviews will be relocated to the Organisational Resilience and Safety team, which will be independent to operations. This will be confirmed following the change process beginning in April 2024.

Conflicts of interest within the Prison Negotiation Team will be discussed with the Inspectorate in February 2024 in order to move this recommendation (118) forward.

Safety and Wellbeing

The Critical Control Protocol for Hazardous Substances is currently being reviewed, and the recommendations relating to substances and their location, storage (inventory) and accessibility are being linked into the regular assessment and inspection processes. This will be further updated with completion and assurance in the next regular update.

Training regarding the safe and effective use of personal and respiratory protective equipment (121) is currently under review, with a view to identifying the most appropriate way to train staff in these procedures.

Emergency Management and Tactical Response

Training for safely evacuating yards (25) has been put in scope for the emergency management work programme, and there have also been scenarios added to the Tactical Instructor revalidation training and the SERT initial training.

CIMS training and staff awareness of emergency management through CIMS (39, 40, 41):

- The Prison Emergency Response Manual (PERM) has been updated and the custodial incident response flipcharts have been updated to align with CIMS. Corrections CIMS 4 training has been developed and is being rolled out to all prisons from February 2024. We are working with National Learning and Development team to have basic CIMS training added to COPD course to complement existing incident response training that new custodial staff receive. All references to Gold, Silver, Bronze are being removed from documents on Tatou.
- There is now a 2 day Corrections CIMS 4 training course developed with a contractor. Unit standards 29553 and 29554 will be awarded through the Department's GTE. Internal and external training exercises with partner agencies will be part of the training pathway to embed and consolidate learning.
- CIMS training is available to all staff across the organisation. Corrections will review the workforce plan to ensure incident / emergency response staff are prioritised to receive

training, including the identification of sustainable training pathways. This is being monitored through the Emergency Management work programme.

Emergency Exercises

- Local level agreements and Memorandums of Understanding (44) are being reviewed and changes scoped for both NZ Police and Fire and Emergency New Zealand. A further update will be supplied at the next due date.
- In relation to the register for multi-agency emergency exercises (50), the exercise and assurance framework is being updated and this process will be transferred to the Organisational Resilience and Safety group when established. This recommendation will remain open until that transition is confirmed. Draft updated exercise assurance framework and guidance has been developed. These include the importance of working with partner agencies through inter-agency exercising.
- The Tactical Operations Group are actively pursuing opportunities for joint training and exercising with emergency services (65). The emergency management team are representing Corrections on the interagency National Security System National Exercise Programme run by the National Emergency Management Agency.
- The Emergency Management work programme is assigned to consider when incident control should be handed over to partner agencies when responding to critical incidents (66).
- Recommendation (67) 'Exercises should not be conducted exclusively online or as `desktop? trainings. Where possible, practical trainings should be prioritised' will be transferred to Organisational Resilience and Safety and there is a draft update of the exercise and assurance framework that considers this recommendation. Consultation on the delivery method of emergency exercises will be consulted following the change to ORS.
- The inclusion of Intelligence staff in the emergency exercise regimes is being considered as part of the Emergency Management work plan.

The Asset Management Team has a programme of work underway which includes ensuring Fire Safety Plans (51) exist on all sites. These plans will be a FENZ approved Fire Evacuation Scheme under the regulations and will monitor compliance which includes when tests are done. The department has BMIS (Building Material Information System) which now captures compliance, including for Fire.

The response to the recommendation to consider handing the control of an incident to NZ Police at the time of hostage-taking (57) is underway. We are working to update the Department's Hostage Policy, once consulted, and updated we will update the Major Incidents Schedule to the NZ Police MOU to include more detailed direction around transfer of control to NZ Police and likely thresholds for the decision to transfer control.

Corrections will review its Capability Development Workforce Plan and ensure staff are provided with initial training and refresher training to respond to incidents of this nature, including opening an Emergency Operations Centre (61). This is progressing as part of the Emergency Management work programme.

The work to emphasise the importance of the logistics function, within the CIMS model, fulfilling the role of provision of food, water, and accommodation (71) is being added to the Emergency Management work plan.

In relation to recommendation (72 and 74) considering the review of SERT and Prison Negotiation Teams and their function - this review is underway and there are several findings that support further clarification of the roles is required for SERT teams nationally. The Prison Negotiation Team manual has been updated, and the team are also facilitating a presentation to all new ACR staff. We will consider the best way to ensure that the Prison Negotiation Team have the right equipment available (75), and update at the next due date.

Intelligence teams are now fully resourced (73) and this recommendation has been completed. Five new positions have been created across the country and will be filled this year.

Samples of an identifier for ACR staff (77) have been sourced and we are awaiting their arrival to assess whether they are fit for purpose.

Recommendation (79)' Corrections must ensure that staff are properly equipped to respond to serious disorder incidents, with consideration given to individually issued personal protective equipment. Corrections must also ensure that sufficient quantities of pepper spray are available on site to enable all staff to respond to such incidents.' is now completed. Regular audits of available pepper spray will take place, with the first being completed in November 2023. This will be monitored by the Tactical Options Committee and the Clothing Governance Group.

Cell phones (departmental or external agency) are now utilisable in prison emergencies, and this is explicitly referred to in the 2023 Prison Emergency Response Manual providing another communicate method as recommended in (82). This recommendation is now completed.

In response to recommendation (87) 'Corrections should consider establishing a dedicated videographer role as part of a response to an incident', Body Worn Cameras have been included in the graduated response planning to be issued to ACR members during any incident. We do agree that this element during of UOF requires more focus which can (and now is) be done during tactical instructor revalidation trainings.

The storage of emergency equipment and considerations about access for staff, but not prisoners (94) has been reviewed. Tactical Advisers have worked with Prison Directors to highlight the risk of storing emergency equipment in areas where it could be accessed by unauthorised persons. Tactical Advisers continue to follow up in their regions to ensure work is continuing in this area. This recommendation has remained open while ongoing assurance processes are established.

Regular training on deployment of MK9 Pepper spray (95) is a recommendation. MK9 is utilised in planned use of force events only, these are less frequent than spontaneous use of force events involving the use of pepper spray. The Prison Director is accountable to ensure the person deploying pepper spray in all situations, but more so in planned events given their nature (and more time available to plan), has the required level of training to operate the pepper spray. We have reviewed the existing training framework and do not believe more frequent training is required (or feasible), but we do agree that this element of use of force requires more focus which can (and now is) being done during tactical instructor revalidation trainings.

In relation to section 179D (100,101,102, 103):

- Legal Services has updated the section in PERM relating s179A-s179E. Providing more clarity on the types of emergencies and when section 179D should be considered. Also, that Legal Services Unit should be consulted before a determination under s179D is made.
- The Prison Emergency Response Manual (PERM) was updated in October 2023 and includes guidance for all staff on notification of an emergency using section 179D of the Corrections

Act 2004. The progress update records why further specificity is not considered helpful in the guidance manual. The riot advice has twice been provided to the Chief Executive on considering whether to notify the Minister about a prison emergency, in August 2022 and again proactively in preparation for potential industrial action in 2023. On both occasions legal advice was sought. These occasions have not resulted in a declaration or notification but have provided an opportunity to consider and test potential criteria or indicators.

- All of the recommendations in relation to this legislation have now been actioned and completed.

Recommendation (104) relates to the Prison Population team being involved in the emergency response CIMS model when there is large scale transfer. Two key resources have been released/updated in 2023. Firstly, the Prison decant contingency plan v6 in April 2023 and secondly the Prison Emergency Response Manual (PERM) in October 2023. The PERM specifically refers to the involvement of the prison population team in "mass decant" of a prison is necessary. The Prison decant contingency plan then provides technical guidance and considerations for managing a major decant. The two guidance resources are CIMS informed, and the Prison Population team are considered part of the 'Operations' function within the CIMS model (they are not a designated CIMS function themselves). This recommendation is now marked as completed.

Publication

I again acknowledge our previous decision to not publicly release the report will impact on your ability to periodically report on progress with recommendations; however, I must again balance that with potential prejudice to the criminal process. After further consideration, Corrections position remains that publication of the Report of the Independent Inquiry into the Waikeria Prison Riot is currently limited by the criminal matters active before the court. This matter continues to be under active consideration and will be reviewed in preparation for conclusion of the criminal trial.

We will nonetheless continue to progress work against the report's recommendations and provide a progress report to you every six months.

If you have any questions regarding this letter or the information provided in the attached table, please do not hesitate to me.

Ngā mihi nui

Ben Clark
Deputy Regional Commissioner – Southern

Cc Jeremy Lightfoot, Leigh Marsh