

Prison policy, prison regime and prisoners' rights in New Zealand

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*Kotahi ano te kaupapa: ko te oranga o te iwi
There is only one purpose (to our work): it
is the wellness and well-being of the people*

Introduction

The Department of Corrections exists to administer the sentences and orders of the criminal courts. It is responsible for managing offenders on community-based sentences and orders, on sentences of imprisonment, and on remand in custody. On any given day the Department manages approximately 8,000 prisoners and over 30,000 community sentences and orders.

The Corrections Act 2004¹ and Correction Regulations 2005² are the principal pieces of legislation under which the Department administers prison services.

An integrated and standardised approach is used in the management of prisoners, which involves induction and assessment, sentence planning, sentence management (including the delivery of rehabilitative interventions) and reintegration into the community.

Over and above addressing capacity constraints, the Department's main strategic challenge for prison services is the effective rehabilitation and reintegration of prisoners to reduce the risk that prisoners will re-offend. To this end the Department is focused on improving its responsiveness to the needs of Maori³ in prisons and enhancing the delivery of alcohol and drug addiction services in prisons.

¹ <<http://www.legislation.govt.nz/act/public/2004/0050/latest/DLM294849.html>>.

² <<http://www.legislation.govt.nz/regulation/public/2005/0053/latest/DLM315417.html>>.

³ Maori are the indigenous people of New Zealand. Maori make up approximately half of the New Zealand prison population, which is significantly higher than their proportion of the general population at approximately 15%.

The Department manages twenty prisons, seventeen men's prisons and three women's prisons. As at 18 February 2008, there were 7,626 prisoners in the Department's custody, of which 7,165 prisoners were men and 461 women⁴. The single largest issue facing the Department's prison services is significant growth in the prisoner population, which is placing pressure on prison capacity. Between June 1999 and June 2007, the remand prison population increased by 129% (935 extra remand prisoners) and the sentenced prison population increased by 27% (1,235 extra sentenced prisoners).

Comprehensive overviews of the Department's activities can be found in the 2006/2007 Annual Report⁵ and the 2007/2008 Statement of Intent⁶.

Prison policy

Legislation

In recent years, a key focus of the Department has been establishing an up-to-date legislative framework for correctional activity. This was achieved with the passing of the Corrections Act 2004 and the Corrections Regulations 2005, both of which came into force on 1 June 2005.

The Corrections Act 2004 and Corrections Regulations 2005 are the main pieces of legislation that establish the legal boundaries within which prison services operate. The Corrections Act 2004 introduced or reconfigured a number of new policies and procedures including:

- establishing the purpose and guiding principles for the corrections system;
- ending contracts for the private management of prisons;
- the requirement to establish individual management plans for prisoners and provide programmes, within the resources available, for offenders' rehabilitation and reintegration into society;
- provisions to ensure prisoners' minimum entitlements are consistent with the United Nations Standard Minimum Rules for the Treatment of Prisoners;
- an extended complaints system, which widens the role of prison inspectors to cover offenders on community-based orders or sentences;

⁴ 51 prisoners were held in police cells. Police cells are managed by the police and are subject to different legislative arrangements.

⁵ <<http://www.corrections.govt.nz/public/pdf/annualreports/ar2007-complete.pdf>>.

⁶ <<http://www.corrections.govt.nz/public/pdf/statementofintent/corrections-soi-2007.pdf>>.

- a more effective searching regime to detect drugs and other unauthorised items in prisons;
- improvements in the prison disciplinary offence regime by giving prisoners the right to legal representation in certain circumstances, replacing the automatic authority of prison managers to conduct disciplinary hearings with the creation of hearing adjudicators to oversee disciplinary hearings, and creating a single set of clearly specified offences that both visiting justices and hearing adjudicators may deal with;
- more information sharing between the Department and the Police on recently released high risk offenders (for instance, sex offenders);
- information-matching with the Immigration Service.

Some of the key provisions of the Corrections Regulations 2005 relating to prisons and prisoners that were new or represented significant alterations include:

- specification of who is eligible for temporary release (unescorted) and temporary removal (escorted) and the purposes for which these may be approved;
- altered provisions regarding the segregation of prisoners;
- assignment, review and reconsideration processes for the security classification of prisoners;
- provisions covering the internal complaints system;
- provision for and restriction of the use of batons and mechanical restraints;
- clarification of what privileges can be forfeited or postponed as a result of a disciplinary offence;
- amended provisions regarding the mixing of young and adult prisoners;
- new provisions around the treatment of mothers and babies in prisons.

Legislation governing correctional activity required updating to:

- reflect modern policies and practices, including Corrections' new policies and procedures for the effective management of offenders on both custodial and community based sentences;
- be compatible with the philosophy and provisions that are prescribed in the Sentencing Act 2002 and Parole Act 2002;
- establish a more appropriate legal structure for the management of much larger prisons;
- simplify legislation that had become complex and difficult to follow as a result of numerous incremental changes.

Amendments to the Corrections Act 2004⁷ are currently before the Parliament. The new legislative framework is working well, but some amendments are required to address issues that have arisen during the period since the Act was passed in 2004. The proposed changes add to the existing framework and help give better effect to existing provisions.

Purpose and principles guiding the delivery of correctional services

The purpose of the corrections system, as outlined in section 5 Corrections Act 2004, is to improve public safety and contribute to the maintenance of a just society by:

- ensuring sentences and orders imposed by the courts and Parole Board are administered in a safe, secure, humane, and effective manner;
- providing for correctional facilities to be operated in accordance with the rules contained in the Act and Regulations made under the Act that are based, amongst other matters, on the United Nations Standard Minimum Rules for the Treatment of Prisoners;
- assisting in the rehabilitation of offenders and their reintegration into the community, where appropriate, and so far as is reasonable and practicable in the circumstances and within resources available, through the provision of programmes and other interventions;
- providing information to the courts and Parole Board to assist them in decision making.

The principles guiding the operation of the corrections system, as outlined in section 6 Corrections Act 2004, are that:

- the maintenance of public safety is the paramount consideration in decisions about the management of persons under control or supervision;
- victims' interests must be considered in decisions related to the management of persons under control or supervision;
- where affordable, reasonable and practicable, offenders must be provided with access to any process designed to promote restorative justice between offenders and victims;
- where affordable, reasonable and practicable, an offender's family must be recognised and involved in decisions relating to sentence planning and management, rehabilitation and reintegration, and must have the opportunity to participate in programmes, services and activities during the course of his or her sentence;

⁷ <http://www.parliament.nz/NR/rdonlyres/8A897992-A70F-46F3-A3DC-0AE2091FFEDD/72890/DBHOH_BILL_8366_5629.pdf>.

- where appropriate and affordable, the cultural background, ethnic identity and language of offenders must be taken into account in developing rehabilitation and reintegration programmes and activities, and in sentence planning and management of offenders;
- offenders are treated fairly through informing them of the rules, obligations and entitlements that affect them;
- decisions made regarding offenders are taken in a fair and reasonable way;
- offenders have access to effective complaints procedures;
- sentences and orders must not be administered more restrictively than is reasonably necessary to ensure the maintenance of the law and the safety of the public, corrections staff, and persons under control or supervision;
- where affordable, reasonable and practicable, offenders must be given access to activities that may contribute to their rehabilitation and reintegration;
- where affordable, reasonable and practicable, prisoners' contact with their families must be encouraged and supported to the extent that this contact is consistent with the maintenance of safety and security.

Strategic priorities

The delivery of correctional services, including prison services, faces a number of strategic challenges and opportunities. With regard to the delivery of prison services the main challenges and opportunities are:

Managing the growth in the prisoner population

Since the late 1990's the prison population has been growing. Recent prison population forecasts have all indicated continued growth into the future at a rate greater than the increase in the general population. Despite adding approximately 2,300 extra prison beds to total prison capacity, this continued growth has led to pressure on prison capacity. In response to this issue, and other concerns regarding criminal justice, the Government launched an initiative called Effective Interventions in the Criminal Justice System⁸ in August 2006. Effective Interventions is a series of measures designed to improve the criminal justice system and make New Zealand a safer and fairer society. Many of the measures focus on reducing the demand for prison beds (e.g. making bail a more effective intervention to reduce the need to place offenders on remand in a prison).

⁸ <http://www.justice.govt.nz/effective_interventions/home.asp>.

Improving and increasing services designed to reduce re-offending

Reducing re-offending by prisoners is a core objective of prison services. To this end a range of rehabilitative and reintegration programmes are offered in prisons. Programmes are evaluated as to their effectiveness. A 2005/2006 review of programme outcomes led to the redesign and implementation of a revised package of rehabilitation programmes in 2006/2007. The current focus is on improving alcohol and drug programmes in prisons and prisoners' access to education and employment, reintegration and cultural initiatives.

Addressing the needs of Maori prisoners

Statistically, Maori are over-represented at every stage of the criminal justice process from Police apprehensions through to rates of re-offending. Though constituting just 15% of the general population, Maori make up 50% of those in prison. Improving outcomes for Maori prisoners is a priority. To this end, Maori cultural values and principles have been incorporated into both the Department's overall philosophy and approach and daily practices and procedures. Programmes and services are in place to specifically target Maori offenders' rehabilitative and reintegrative needs, and specialist Maori Focus Units within prisons utilise Maori cultural principles as a source of social values.

Prison regime

Prison estate

The Department manages twenty prisons that are located across the country. Seventeen of the prisons house male prisoners and three house female prisoners. One prison (Auckland Prison) is a designated maximum security prison for male prisoners, and another (Auckland Central Remand Prison) primarily serves to house male prisoners on remand. The remaining eighteen prisons are a mix of low to high security prisons to manage both sentenced prisoners and remand prisoners.

Of the twenty prisons, four have opened since March 2005, and represent approximately 17% of total prison beds. The new facilities incorporate design and features that are intended to be the most effective in terms of safety, security and prisoner rehabilitation. They have been built in locations to improve the opportunity for prisoners to serve their sentence close to family, whanau and other support networks.

Overview of offender management

FOR OFFENDERS SENTENCED TO PRISON					
	PRE-SENTENCE ASSESSMENT AND REPORTING TO THE SENTENCING JUDGE	CUSTODIAL SENTENCE INDUCTION HOME DETENTION REPORTING TO THE PAROLE BOARD	CUSTODIAL SUPERVISION MOTIVATIONAL PROGRAMMES REHABILITATIVE PROGRAMMES EDUCATIONAL PROGRAMMES EMPLOYMENT SKILLS TRAINING OFFENDER EMPLOYMENT	REINTEGRATIVE PROGRAMMES RELEASE-TO-WORK PRE-RELEASE REPORTING TO THE PAROLE BOARD HOME DETENTION REPORTING TO THE PAROLE BOARD	RELEASE ON PAROLE RELEASE ON CONDITIONS SUPPORT IN THE COMMUNITY
OFFENDER STATUS	CONVICTED OF OFFENCE → COMMENCING SENTENCE → SERVING SENTENCE → PREPARING FOR RELEASE → RELEASED				
	PRE-SENTENCE ASSESSMENT AND REPORTING TO THE SENTENCING JUDGE	COMMUNITY-BASED SENTENCE INDUCTION	COMMUNITY SENTENCES ORDERS SERVED IN THE COMMUNITY MOTIVATIONAL PROGRAMMES REHABILITATIVE PROGRAMMES		SUPPORT IN THE COMMUNITY
FOR OFFENDERS SENTENCED TO COMMUNITY-BASED SENTENCES OR ORDERS					

Serving a prison sentence

Offenders who have been sentenced to prison are assessed and assigned a security classification. This is based on the risks they pose, both inside and outside a prison, so they can be managed accordingly. They are then inducted into prison life, prison rules and procedures. This includes an assessment of their health and risk of self-harm.

Sentence Planners assess the prisoner's needs and assign a sentence category at the start of a prison sentence. Prisoners who are higher risk and have some motivation towards addressing their behaviour will be the main focus of Corrections' rehabilitation programmes. Lower risk prisoners are encouraged to address their employment, education, reintegration and general living needs. Programmes are expensive. Care is therefore taken to place only those who will benefit most into the programmes on offer.

Prisoners have access to motivational, rehabilitative, reintegrative and educational programmes, as well as work training and employment. Motivational programmes are designed to encourage prisoners to address the problems that led to their offending. Rehabilitative programmes help motivated pris-

oners examine the causes behind their offending and learn positive alternatives to their criminal behaviour. Reintegrative programmes prepare a prisoner for release back into the community. Educational activities aim to increase prisoners' literacy, numeracy and secondary education levels. Rehabilitative and reintegrative programmes can be delivered in a group environment or within a live-in treatment unit. Corrections have a number of different treatment units, including Maori Focus Units, a Pacific Focus Unit, a Faith-based Unit, Alcohol and Drug Treatment Units, a Violence Prevention Unit, Reintegration Units and Special Treatment Units for men who have sexually offended against children or young persons.

Prisoners under the age of eighteen and eighteen-nineteen year old prisoners who have been assessed as vulnerable, reside in Young Offender Units separate from the rest of the prison population in compliance with the United Nations Convention on the Rights of the Child. The Young Offender Units also meet Corrections' responsibilities under the Education Act 1989 which require all youth under sixteen year old to be involved in full-time education. Young Offender Unit prisoners average thirty hours of rehabilitative programmes, vocational training and education each week.

Self-care Units accommodate prisoners who are preparing for release. Self-care Units also cater for prisoner mothers with babies. These units provide an environment similar to life outside prison (i.e. prisoners do their own cleaning and cooking, go to work et cetera, as would a family outside prison), although with continued custodial supervision and restrictions.

Corrections operate a number of industries to give prisoners the opportunity to work in a realistic work environment. Employment and employment training increase the skill level of prisoners and prepare them for eventual release. Depending on their behaviour, and the risks they pose, prisoners may also be released to work outside prison during the day. After work they return to prison. Part of the wages prisoners earn in outside work is returned to prisons to help offset custodial costs⁹.

Preparing for release from prison

When preparing a prisoner for release, Sentence Planners assess the prisoner's reintegrative needs. This may include supporting the prisoner to de-

⁹ In 2006/2007 the Department launched its Prisoner Employment Strategy. Over four years the Department plans to create 1,900 more places for prisoners in employment and training activity. By the end of 2006/2007, 416 employment and training places were created. The nature of the opportunities is wide, ranging from working in forestry to the hospitality industries.

velop in areas such as domestic skills, parenting skills and managing interpersonal relationships. The prisoner may also be placed in a Reintegration Unit or a Self-care Unit designed to simulate life outside of prison.

When a prisoner becomes eligible for parole, Corrections will prepare a parole assessment report to the Parole Board. The report will describe how the prisoner responded to programmes and other interventions in prison, his or her behaviour, the risk of the offender re-offending and the offender's ongoing needs. Special conditions may also be proposed for the offender's release.

Release from prison

The Parole Board is an independent entity comprising twenty judges and seventeen non-judicial members. It is separate from Corrections, Police, and the Courts.

A Sentence Planner will prepare a report for the Parole Board to help them make appropriate decisions. The Parole Board sets the conditions for offenders when they are released and can recall offenders to prison if these conditions are not met.

An offender who has been released on parole or on conditions is required to report regularly to a Probation Officer. The Probation Officer will work with the offender to help ensure he or she meets the conditions of release, has appropriate support networks to minimise the likelihood of re-offending, and builds on the positive changes made in prison.

If the offender does not meet the conditions of his or her parole, the Probation Officer can apply to the Parole Board to have the offender recalled to prison. If the offender does not satisfy his or her release conditions, the Probation Officer takes enforcement action.

Security classification of prisoners

Security classification of prisoners is covered by sections 47 and 48 Corrections Act 2004, and sections 44 to 52 Corrections Regulations. Administration of security classification is covered under the Prisoner Support¹⁰ section of the Prisons' Policy and Procedures Manual.

Sentenced prisoners are subject to a dual security classification system, which assigns a prisoner an internal and external risk rating. The lowest security rating is AA, which means a prisoner presents a low internal and external risk and is more likely to be housed in less secure accommodation. An AA rating is required to participate in programmes that involve prisoners leav-

¹⁰ <<http://www.corrections.govt.nz/public/policyandlegislation/ppm/sectiona/a08/>>.

ing the prison premises such as occurs under the 'release to work' programme¹¹.

The highest security classification a prisoner can have is CB, which means a prisoner represents a maximum internal risk and a high external risk. Only male prisoners can receive a CB security classification. The highest a woman prisoner can receive is BB: high internal and external risk rating.

Sentenced prisoners are required to have their security classification determined within fourteen days of being received in prison. Initially, prisoners tend to receive a higher security classification due to uncertainty about how they will respond to and behave in the prison environment.

A prisoner's security classification must be reviewed at least once every six months or wherever there is a significant change in the prisoner's circumstances. Section 47(4) defines what constitutes "significant change", for instance, a charge of assault.

The security classification system is designed to encourage prisoners to seek a lower security classification over time to AA class. A low security classification means prisons are better able to assist prisoners to prepare for reintegration into the community upon completion of their prison sentence. This is because an AA security class is required if a prisoner is to participate in offsite activity like release to work.

Prisoners on remand are not currently assigned a security classification, and as far as practicable are to be kept separate from sentenced prisoners. Accused prisoners are entitled to the same treatment as sentenced prisoners, taking into account the personal safety and security issues relating to the prisoner.

Prison conditions

Detailed information on the conditions prisoners can expect when received in prison are contained in the Prisons' Policy and Procedure Manual¹² under Prisoner Support¹³. These are based on the guidelines contained in the Corrections Act 2004 and Corrections Regulation 2005.

Generally prisoners are housed in their own cell, although on occasion if there is a shortage of accommodation more than one prisoner may be housed in a cell. Prisoners can keep a range of personal items like televisions and hot water jugs in their cells, but they have to provide these themselves. To main-

¹¹ Prisoners on release to work are employed by private employers in the community, and prisoners go outside the prison to work for their employer.

¹² See <<http://www.corrections.govt.nz/public/policyandlegislation/ppm/>>.

¹³ See <<http://www.corrections.govt.nz/public/policyandlegislation/ppm/sectiona/>>.

tain public safety and good order within prisons some items like cell phones and knives are banned.

Prisoners are usually subject to an unlock regime that is *at least* between 8 am and 5 pm. Prisons seek to provide longer unlock hours for prisoners, but this is subject to prison population pressures and staffing levels. Section 70 Corrections Act 2004 prescribes that prisoners are entitled to *at least* one hour of physical exercise per day.

All prisons provide primary health care to prisoners, with secondary and tertiary health care provided by the local District Health Service. Prisoners' access to health care is designed to be comparable to what a person outside prison could reasonably expect to have access to.

Prison discipline

Sections 128 to 140 Corrections Act 2004 and part 11 of Corrections Regulations outline the offences against discipline for which a prisoner can be charged, and the basis for how disciplinary offences are to be managed. Discipline is also covered in the Prison Support¹⁴ section of the Prison's Policy and Procedures Manual.

Offences against discipline range from disobeying a lawful order of a corrections officer to assaults or fights with any other persons. Generally, minor or unintentional breaches of discipline are expected to be handled at the Unit level by corrections officers and do not necessarily lead to a formal charge.

Hearing adjudicators exist to hear formal complaints of offences against discipline by prisoners. Hearing adjudicators are designated positions that come from within Department of Corrections' staff, and are selected by the chief executive. The chief executive must designate enough hearing adjudicators for each prison to meet demand.

All hearings and examinations must be held in the presence and hearing of the prisoner charged. The prisoner is entitled to be heard and to cross-examine any witness. If the offence is proved the adjudicator can impose a range of punishments from confinement in a cell for up to seven days to ordering the prisoner to forfeit to the Crown a specified amount of money not exceeding \$100.

Hearing adjudicators may, at any time before making a decision on a charge, refer the case to a visiting justice. In turn, prisoners can appeal any decision made by a hearing adjudicator to a visiting justice within fourteen days of the decision. Visiting Justices are judicial officers independent of the Department of Corrections (e.g. District Court Judge). Visiting Justices have the

¹⁴ <<http://www.corrections.govt.nz/public/policyandlegislation/ppm/sectiona/a07/>>.

power to impose more severe punishments than hearing adjudicators. For instance, Visiting Justices can order confinement in a cell for up to fifteen days. Visiting Justices can also refer complaints back to hearing adjudicators. Prisoners can request permission to have legal representation during the hearing of a charge. Hearing adjudicators and Visiting Justices consider a range of factors when deciding whether or not to allow legal representation. If it is found that an offence by a prisoner constitutes a criminal offence (e.g. causes grievous bodily harm to another person), then the offence is referred to the Police for investigation and if a charge is laid, it is handled through the normal courts.

Special categories of prisoners

Corrections Regulations 2005 identify six special categories of prisoners.

Mothers with babies

Women prisoners with a low security classification who are either pregnant or have a baby under six months old, can apply to care for their baby while in the prison. These women are housed with other low security class women in the self-care units.

Accused prisoners and Immigration Act 1987 detainees

Accused prisoners are prisoners waiting trial or sentencing. Immigration Act 1987 detainees are foreign nationals who are subject to a deportation order. Where practicable, accused prisoners are to be kept separate from the sentenced prison population.

Youth prisoners

Youth prisoners are prisoners under the age of eighteen. Where practicable, youth prisoners are to be kept separate from prisoners over eighteen years of age, and special youth units exist in the male prisons to house male prisoners under the age of eighteen.

Service prisoners

Service prisoners are members of the Armed Forces. Special information-sharing arrangements with the Armed Forces exist for such prisoners.

Prisoners detained for non-payment of money

Unlike other prisoners, prisoners detained for non-payment of money are entitled to communicate with any person (other than another prisoner) at any reasonable time for the purpose of obtaining a sum of money to enable the prisoner to be released.

Transgender prisoners

Where the chief executive is satisfied that a transgender prisoner has completed gender reassignment surgery, he/she must promptly ensure that the prisoner is placed in accommodation according with his/her new gender.

Prisoners' rights

Section 23(5) Bill of Rights Act 1990¹⁵ provides that everyone deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the person. Section 23(5) applies to all forms of detention. Persons who are arrested or detained are expected to be kept in facilities and treated in a manner consistent with commonly accepted standards. With regard to prisons, the United Nations Standard Minimum Rules for the Treatment of Prisoners is used as a baseline for the delivery of prison services (referred to under section 5 Corrections Act 2004).

There is also an expectation that, even allowing for the possibility that a person's dignity may be affected by detention, the form of detention should not result in a sense of anguish and inferiority capable of debasing or humiliating the person.

Overview of prisoners' rights

All sentences and orders entail a range of restrictions and requirements which affect offenders' daily living. These include restrictions on their freedom, the things that offenders may have in their possession, the requirement to conform to routines, and tight controls on contacts with people from the community, including family. A restriction on the use of alcohol and other drugs is also one of the aspects of imprisonment and can be a condition of some community-based sentences and orders.

¹⁵ <<http://www.legislation.govt.nz/act/public/1990/0109/latest/DLM224792.html>>.

While prisoners are restricted in relation to many aspects of their lives while in prison, under the Corrections Act 2004 (sects 69-82) there are minimum entitlements that all prisoners are entitled to receive while under the care and custody of the Department. These include such things as a bed and bedding, food and drink, access to private visitors, access to legal advisers, physical exercise, access to information and education, and the ability to send and receive mail and make outgoing telephone calls.

Prisoners are provided with a sufficient quantity of wholesome food and drink based on the food and nutritional guidelines and any drinking water standards issued by the Ministry of Health (MoH).

Prisoner communication (externally) is managed in a way that facilitates approved communications and restricts the likelihood of illegal activities.

All prisoners are entitled to make at least one outgoing telephone call of up to five minutes duration per week, in addition to any calls to an outside agency or his or her legal adviser. All telephone calls (except approved toll free numbers) are at the expense of the prisoner.

Prisoners are entitled to send and receive mail. Staff members must take into account certain considerations when dealing with any mail to or from a prisoner, such as the need to protect the privacy of prisoners and their correspondents; the benefits to prisoners of maintaining contact with persons and organisations outside the prison; the need to maintain the security and order of the prison; the need to prevent the commission of offences; the need to ensure the safety of any person; and the need to prevent the entry of unauthorised items into the prison.

Prisoners are entitled to have at least one private visitor a week for a minimum duration of thirty minutes. All private visitors¹⁶ have to be approved by the prison as part of a pre-approved visitor system and all visitors are required to comply with a strict set of rules and regulations each time they make a visit to the prison. This maintains the family and social relationships of the prisoner in order to promote his reintegration into the community on release. Each prison will also have up to three family days each year.

Visits to a prisoner or prisoners are not recorded by sound or visual recording without the approval of the Prison Manager, the prisoner and the visitor. However, visual images of prisoners and visitors may be recorded by security surveillance cameras.

¹⁶ As distinct from statutory visitors who have legal entitlement to visit prisoners, like a prisoner's legal advisor.

Protection of prisoners' rights – internal oversight

To protect prisoners' rights, a Corrections Inspectorate exists within the Department. The Corrections Inspectorate was established under the provisions of section 28 Corrections Act 2004 as a dedicated complaints resolution, investigation and assurance function, reporting directly to the chief executive independently of operational line management. The legislation acknowledges the high level of risk attached to prison management and the need to provide a significant level of legislative prescription and protection as well as access by the chief executive's assurance agents to information related to sentence management, and imprisonment in particular.

A toll free phone line is operated by the Inspectorate, enabling prisoners' concerns to be heard directly by an inspector, should they be unwilling or unable to make contact by other means. Normally it is expected that prisoners' complaints are handled at the unit level, and it is the responsibility of unit staff to resolve prisoners' concerns by taking the appropriate action before they escalate into formal complaints or incidents that require a formal charge to be made.

Inspectors also regularly visit prisons to view the facilities, interview prisoners and staff, and resolve complaints. The Inspectorate investigates all deaths in custody and may also investigate other serious incidents or allegations of abuse.

Protection of prisoners' rights – external oversight

External oversight of prisons is also provided by the Ombudsmen's Office¹⁷. Ombudsmen are independent Officers of the Parliament who investigate complaints against central and local government agencies (including, in the case of the official information legislation, Ministers of the Crown).

The Office of the Ombudsmen employ six staff members who deal specifically with enquiries from prison inmates and assist the Ombudsmen to investigate complaints made by prison inmates.

Ombudsmen's prison investigating staff visit each prison on a regular basis and are available to speak with prisoners about their concerns. Notices are placed in each prison unit advising when visits are to take place. If an inmate wishes to meet with an investigator, he or she must fill out a request form and give it to a correctional prison officer.

¹⁷ <<http://www.ombudsmen.govt.nz/>>.

The Department of Corrections notifies the Ombudsmen of any serious incidents in prisons. Serious incidents mean “serious incidents of a nature potentially affecting the safe, fair and humane treatment of offenders”. Examples of serious incidents include deaths in custody, incidents of self harm by inmates or alleged assaults on inmates by staff. An Ombudsman or prison investigating officer will often make a special visit to a prison where a serious incident has occurred. The Department of Corrections’ investigation of a death in custody is always monitored by an Ombudsman and the Department’s investigation of other serious incidents may also be monitored.

In 2005 the Ombudsmen conducted an in-depth review of prison conditions. The report *Ombudsmen’s Investigation of the Department of Corrections in relation to the detention and treatment of offenders*¹⁸ was released in December 2005. The Ombudsmen found neither systematic ill-treatment of prisoners or abuses of power, nor any culture amongst prison staff of abuse of prisoners. The Ombudsmen did make 37 recommendations to improve prison services, and the Department of Corrections has implemented changes to its policies and practices in response to most of the recommendations.

¹⁸ <<http://www.ombudsmen.govt.nz/cms/imagelibrary/100169.doc>>.