



QUEENSLAND
OMBUDSMAN



Prison overcrowding and other matters report



An investigation in response to a reference
by the Legal Affairs and Safety Committee
of the Queensland Parliament.

February 2024



Leaving Our Mark
(left and elements used throughout)

Nathaniel Chapman

Goenpul and Yuggera Man, also from the Wambia Tribe in Northern Territory and Waka Waka country in Eidsvold, Queensland (2023)

We acknowledge the Traditional Owners of the land throughout Queensland and their continuing connection to land, culture and community. We pay our respects to Elders past, present and emerging.

Authority

The Speaker of the Queensland Parliament, the Hon. Curtis Pitt MP, has authorised publication of this report under s 53 of the *Ombudsman Act 2001*.

Public

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Snapshot

The *Prison overcrowding and other matters report* is a response to a reference to this Office by the Legal Affairs and Safety Committee of the Queensland Parliament. The report is required by section 53 of the *Ombudsman Act 2001*.

The reference covered various matters about Queensland's corrective services system. Among the issues that were within our jurisdiction, the most significant was the impact of prison overcrowding.

Prison overcrowding

We investigated the overcrowding of Queensland prisons generally and specifically at Maryborough Correctional Centre (MCC). Queensland's prisons have been overcrowded since 2014–15, with resultant impacts on officers, prisoners and prison infrastructure. Considered together, these impacts present a fundamental challenge to Queensland Corrective Services (QCS) in achieving its statutory objective of humane containment.

The responses to overcrowding include increased staffing levels, increased number of prison cells, fitting cells with bunk beds, and workplace health and safety initiatives. While these responses have addressed some of the impacts of overcrowding, this report outlines recommendations to further address the ongoing significant risks to officers and prisoners.

What we recommended

Strategies we recommended to QCS include:

- providing advice to government on options to expand the number of cells available
- continued focus on workplace health and safety responses for officers
- addressing staffing issues created by overcrowding
- managing the impact of overcrowding on prison services and infrastructure
- ensuring the availability of psychology services to prisoners in shared cells
- improving the configuration of existing shared cells to reduce impacts on prisoner wellbeing
- reducing the application of modified unit routines
- improved decision-making and risk assessment processes for shared cell arrangements
- ensuring transparency of information about prisoner numbers and overcrowding
- improved recognition in regional prisons of the special legal status of remand prisoners.

Specific recommendations for MCC include continuing to address staffing levels, improving infrastructure and access to services.

We did not make any adverse findings or recommendations about the QCS rank structure and uniform dress standards, or funding of uniforms and personal protective equipment.

The report recommendations were accepted without reservation by the QCS Commissioner.

Implementation

The ongoing implementation of the recommendations will be monitored as part of the program of inspections of prisons and subsequent reports to Parliament under the *Inspector of Detention Services Act 2022* (IDS Act).

Recommendations

Recommendation 1

QCS continue to include information about facility utilisation on the basis of built cell capacity in its departmental annual report.

Recommendation 2

QCS publish on its website its annual forecasts of prisoner numbers for the five years following the year in which the forecast is made.

Recommendation 3

In recognition of the importance of humane containment, QCS develop and provide advice to government on options to expand the number of cells available to accommodate prisoners on an ongoing basis and reduce the harmful impacts of overcrowding over time. Priorities for QCS advice on options should include addressing chronic overcrowding at Arthur Gorrie Correctional Centre and increasing built cell capacity for female prisoners.

Recommendation 4

QCS should prioritise the development of responses to the range of impacts of overcrowding identified in this report.

Recommendation 5

To reduce the impacts of overcrowding at Maryborough Correctional Centre, QCS:

- (a) maintain sufficient staffing levels of custodial officers at MCC to provide core prisoner supervision, but also undertake other duties such as escort of prisoners and supervision of recreational activities
- (b) review the adequacy of current staffing arrangements for the various small, centralised units at MCC such as administration, intelligence, psychology, cultural liaison and programs, which have struggled to maintain service levels in the face of increases in prisoner numbers
- (c) assess whether the current staffing model for MCC remains appropriate, and if not, implement a new, more contemporary model
- (d) review the sufficiency of the provision of prisoner services such as programs, education, industry and other employment to meet the needs of a growing prisoner population, and seek to address identified deficiencies
- (e) assess the need for capital improvements to MCC buildings, storage, kitchen and plumbing to ensure they are sufficient to meet the needs of increased prisoner numbers
- (f) where necessary, assist local management to continue to closely monitor and respond to the health and safety of officers, particularly in relation to assaults on officers as prisoner numbers increase
- (g) ensure MCC management engage with staff to reduce, where possible, the use of modified unit routines (MURs).

Recommendation 6

QCS undertake a review of the Custodial Operations Practice Directive (COPD) on Prisoner Accommodation Management and how it is being implemented to ensure that it effectively guides decision-making to mitigate risks associated with shared cell placement decisions, and is being fully implemented by officers through individualised assessments that are well documented.

Recommendation 7

As part of the review of the QCS Custodial Operations Practice Directive (COPD) on Prisoner Accommodation Management in Recommendation 6, QCS review the implementation of the COPD's requirements about the accommodation of remand prisoners in regional correctional centres to ensure that remand status is properly considered when making accommodation decisions.

1. Introduction

The parliamentary reference

On 10 December 2021, the Honourable Peter Russo MP, Chair of the Legal Affairs and Safety Committee (LASC), wrote to the Queensland Ombudsman and advised that the LASC had agreed to refer a matter concerning the administrative actions of QCS to the Office of the Queensland Ombudsman under the *Ombudsman Act 2001* for investigation and report.

Jurisdiction to investigate the issues referred by the LASC

The Ombudsman is an officer of the Parliament empowered by the Ombudsman Act to:

- investigate administrative actions of agencies on reference from the Assembly or a statutory committee of the Assembly; or on complaint; or on the Ombudsman's own initiative
- consider the administrative practices and procedures of an agency whose actions are being investigated and make recommendations to the agency about appropriate ways of addressing the effects of inappropriate administrative actions; or for the improvement of the practices and procedures
- consider the administrative practices of agencies generally, and make recommendations or provide information or other help to the agencies about ways of improving the quality of administrative practices and procedures.

Under s 19 of the Ombudsman Act, the LASC can refer to the Ombudsman for investigation and report any administrative action the Ombudsman may investigate that the LASC considers should be investigated by the Ombudsman. As QCS is an 'agency' for the purposes of s 18 of the Ombudsman Act, the Ombudsman must investigate the parliamentary reference of an administrative action of QCS.

Where the Ombudsman investigates administrative action because of a parliamentary reference, s 53 of the Ombudsman Act requires a report on the investigation to be given to the Speaker for tabling in the Assembly.

Although under s 25(2) of the Ombudsman Act the Ombudsman is not bound by the rules of evidence, the question of the sufficiency of information to support an opinion of the Ombudsman requires some assessment of weight and reliability. The standard of proof applicable in civil proceedings is proof on the balance of probabilities. This essentially means that, to prove an allegation, the evidence must establish that it is more probable than not that the allegation is true. Although the civil standard of proof does not strictly apply in administrative decision-making (including the forming of opinions by the Ombudsman), it provides useful guidance.

Issues investigated

The Ombudsman approved the investigation of six issues identified from the information provided with the reference as administrative actions of QCS:

1. Whether QCS properly planned for overcrowding of correctional centres, and the actions being taken to deal with the issue
2. What the effects are of overcrowding within MCC with respect to the prison population and health and safety of the custodial officers, and whether QCS is managing this reasonably
3. Shared cell accommodation agreements for all prisoners within secure units at MCC, and whether proper processes are being followed
4. Whether sentenced and remand prisoners are accommodated together at correctional centres, specifically MCC, and how this aligns with the obligations of the Human Rights Act 2019 (HR Act)
5. The reasonableness of QCS' adoption of the rank structure relating to uniform dress standard changes
6. Whether custodial officers are expected to fund occupational health and safety initiatives, their uniforms or any required personal protective equipment from their own wages.

The six chapters of this report detail the investigation and conclusions on each of these issues.

Issues not investigated

After making initial inquiries with the Commissioner of QCS, the Ombudsman determined three issues included in the reference were not within the Office's jurisdiction:

- discrepancies in QCS' pay structure in relation to Custodial Correctional Officers (CCOs)
- whether there are greater qualification requirements for CCOs than other positions
- whether QCS' proposed certified agreement was adequate.

The issues all relate to QCS' current certified agreement. Under s 16(2)(a) of the Ombudsman Act, any matters, including the make-up of the certified agreement itself, that are capable of proceeding to the QIRC are outside the jurisdiction of this Office.

Further information is contained in Appendix C.

Investigation methodology

The investigation was conducted informally under s 24(1)(a) of the Ombudsman Act and included:

- review and analysis of relevant legislation, including the *Corrective Services Act 2006* (the CS Act) and the *Corrective Services Regulation 2017*
- a visit to MCC on 26 and 27 October 2022 to informally interview the General Manager, Chief Superintendent Kristine Winter, as well as a range of centre staff and prisoners
- analysis and research of complaint issues
- written enquiries to the Commissioner of QCS and analysis of responses
- written enquiries to the General Manager of MCC and analysis of responses.

The period between January 2019 and October 2022 was selected as the scope for the investigation given the dates of the information outlined in the reference (October 2021), the finalisation of the certified agreement (June 2022) and the Ombudsman visit to the MCC (October 2022).

Proposed report

The terms ‘procedural fairness’ and ‘natural justice’ are often used interchangeably within the context of administrative decision-making. The rules of procedural fairness have been developed to ensure that decision-making is both fair and reasonable.

Under s 25(2) of the Ombudsman Act, investigators must also comply with these rules when conducting an investigation, and if at any time during the course of an investigation it appears that there may be grounds for making a report that may affect or concern an agency, the principal officer of that agency must be given an opportunity to comment on the subject matter of the investigation before the final report is made (s 26(3)).

This report was completed as a proposed report in October 2023.

To satisfy these obligations, this Office provided the proposed report to Mr Paul Stewart, Commissioner of QCS. The Commissioner responded to the proposed report on 5 December 2023 and provided comments on the proposed recommendations (Appendices B and D). Where appropriate, the Commissioner’s response has been referenced in this report.

The investigation was not undertaken with a view to criticising any particular officer. There are no adverse comments against any person in this report. Therefore, comments in this report should not be taken as reflecting adversely on the reputation, competency or integrity of any QCS officer involved in the operation of MCC or more generally involved in QCS’ response to overcrowding at MCC.

2. Prison overcrowding in Queensland

Whether QCS properly planned for overcrowding of correctional centres, and the actions being taken to deal with the issue

Introduction

This chapter of the report examines prison overcrowding generally within Queensland's corrective services system. The next chapter will investigate the impact of overcrowding at Maryborough Correctional Centre.

The scope of the investigation in this chapter has been limited by the following provisions of the Ombudsman Act:

- s 16, which provides that the Ombudsman must not question the merits of a Cabinet decision
- s 15, which refers to the importance of avoiding inappropriate duplication of investigative activity.

In relation to s 16, many of the significant actions taken to deal with overcrowding from 2014–15 onwards were funded through Queensland State Budgets, including:

- the bunk bed program, which retrofitted thousands of bunk beds to cells
- expanding existing custodial facilities such as Capricornia Correctional Centre
- building the Southern Queensland Correctional Precinct (now known as the Lockyer Valley Correctional Centre)
- increasing staffing numbers in prisons
- implementing the recommendations of the Queensland Parole System Review.

As allocations of funding under Queensland State Budgets are decided by Cabinet, this investigation has not assessed the merits of those decisions. Instead, the focus is on the administrative actions of QCS.

In relation to s 15, this investigation has not sought to duplicate the investigative process of the many investigations of prison overcrowding by other independent bodies. Those investigations include:

- Queensland Parole System Review (November 2016), which undertook a thorough analysis of the causes of overcrowding and actions taken in response
- Crime and Corruption Commission's Taskforce Flaxton report (December 2018), which assessed the problems created by overcrowding, as well as its drivers
- Queensland Productivity Commission's report on its Inquiry into Imprisonment and Recidivism (August 2019), which assessed the causes of the growth in prisoner numbers and a suite of strategies to address the problem
- Queensland Audit Office audits of the management of privately operated prisons (2016), which included causes, problems and strategies to manage the problem, and the evaluation of major infrastructure projects (2020), which assessed the development of the business case for the Arthur Gorrie Correctional Centre Expansion.

The Queensland Ombudsman last published a report on overcrowding in Queensland's prisons in 2016, following an investigation at Brisbane Women's Correctional Centre. At the time, women prisoners were being required to 'double up' in cells designed for one person, in poor conditions such as sleeping on mattresses on the floor.

Understanding overcrowding

Overcrowding of prisons occurs where the number of prisoners held in a prison exceeds the prison's capacity.

While there are different approaches to assessing a prison's capacity, for the purposes of understanding overcrowding, a prison's capacity is generally understood as its design capacity – that is, the number of prisoners that it was designed to hold (Queensland Ombudsman, [Overcrowding at Brisbane Women's Correctional Centre 2016](#)). Importantly, design capacity not only relates to the design and number of cells, but also the design of a prison's infrastructure, such as facilities for health care, visitors, programs, recreation, employment, preparing and eating food, managing waste, administration and so on.

For many decades, QCS (and its predecessor departments) has been reporting on the utilisation of its facilities from a design capacity perspective using the descriptor *built cell capacity* as a performance measure in its annual report. Built cell capacity is defined by QCS as the total number of built prisoner accommodation cells (QCS [Prisoner accommodation capacity definitions](#)). Using a built cell capacity approach, QCS notes in its 2021–22 annual report that levels of facility utilisation are measured by assessing the average daily prisoner population as a percentage of the number of single occupancy cells and designated beds in shared occupancy cells provided for in the built cell capacity of correctional facilities.

A complicating factor in understanding whether a prison is overcrowded is that QCS' target for facility utilisation is 90–95% rather than 100%. Maintaining a utilisation rate below 100% is desirable as it provides spare capacity to cater for operational demands such as transfer of prisoners and fluctuations in prisoner numbers (Office of the Custodial Inspector Tasmania, [Capacity Utilisation Review 2021](#)).

Given the Queensland corrective service system's increasing reliance on the use of bunk beds in cells, another definition of capacity that is important to understand is *built bed capacity*.

QCS defines built bed capacity as the number of built prisoner accommodation bed places in single and shared cells, and dormitories (QCS [Prisoner accommodation capacity definitions](#)). The 2021–22 QCS annual report notes that built bed capacity measures the average daily prisoner population as a percentage of the number of built beds at correctional facilities.

An illustrative example of how the installation of double bunks increases built bed capacity is contained in this description of the recommissioning of a facility in the QCS 2017–18 annual report:

The Borallon Training and Correctional Centre (BTCC) has undergone a staged recommissioning of cells with 95 cells initially commissioned in April 2016. A further 153 cells with a modified safer cell design were commissioned in June 2016 and the remaining 244 secure cells were commissioned in July 2018. During the commissioning, a further 244 purpose-built bunk beds were also installed in the 244 secure cells, bringing the total built bed capacity of the centre to 736.

In its 2021-22 annual report, QCS reported facility utilisation on the basis of built cell capacity but added a measure for built bed capacity for the first time. To ensure transparency of information for the community about facility utilisation and overcrowding in Queensland, it is important that built cell capacity continue to be reported publicly by QCS in these reports alongside built bed capacity.

Recommendation 1

QCS continue to include information about facility utilisation on the basis of built cell capacity in its departmental annual report.

QCS response

In 2022-23, QCS introduced a new service standard regarding facility utilisation, namely built bed capacity. As such, QCS now has two facility utilisation service standards – built cell capacity, which is a measure of the capacity of correctional centres as designed, and built bed capacity, which includes permanently installed bunk beds and is a measure of QCS' management of the continuing growth in prisoner numbers. QCS will continue to report on these service standards in its service delivery statements and annual reports.

Ombudsman comment

I note the Commissioner's response and am encouraged by the QCS' introduction of a new service standard to ensure transparency in reporting on the growth in prisoner numbers, and that QCS will continue to monitor and report on these service standards.

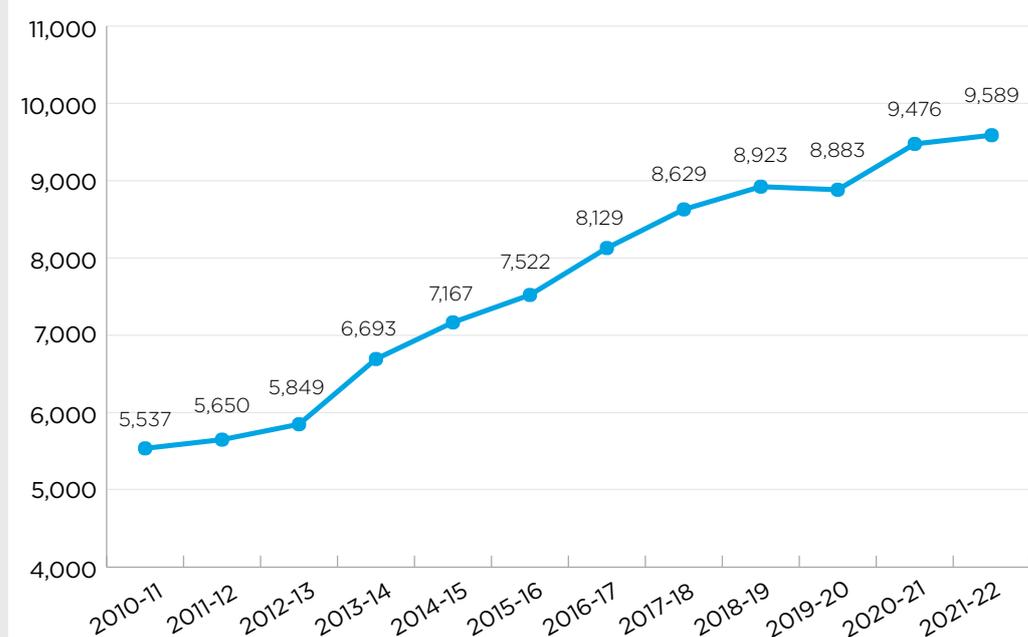
Are Queensland's prisons overcrowded?

Due to growth in prisoner numbers since 2012, Queensland's prisons have been overcrowded since at least 2014-15.

Growth in prisoner numbers

Growth in the Queensland prisoner population from 2010-11 to 2021-22 is shown in Graph 1.

Graph 1 – Prisoner population (average daily number), 2010-22



Source: Australian Productivity Commission, Report on Government Services (RoGS)

The causes of the growth in prisoner numbers after 2012 are complex and multifaceted. The views of QCS noted in the *Queensland Parole System Review Final Report* were:

QCS has informed me that the main factors contributing to the growth in Queensland's prisoner numbers include:

- (a) an increase in reported and cleared property offences;
- (b) an increase in sentences of imprisonment imposed by the courts, instead of non-custodial orders;
- (c) a decrease in the grants of parole by Queensland's Parole Boards; and
- (d) an increase in the number of prisoners returning to prison, due to parole breaches.

A 2019 inquiry by the Queensland Productivity Commission reported that increasing rates of imprisonment have 'primarily been driven by policy and system changes and a focus on short term risk, not crime rates', such as:

- increased reporting of crime
- an increase in the use of prison sentences over other options

- an increase in recidivism rates
- an increase in policing effort
- an increased propensity for policy to use court action
- a significant increase in the proportion of unsentenced (remand) prisoners in the last five years

It reported that changes in sentence lengths have had little impact on imprisonment rates.

Important to note also is that the growth in the rate of imprisonment of Aboriginal and Torres Strait Islander and women prisoners has exceeded the general population.

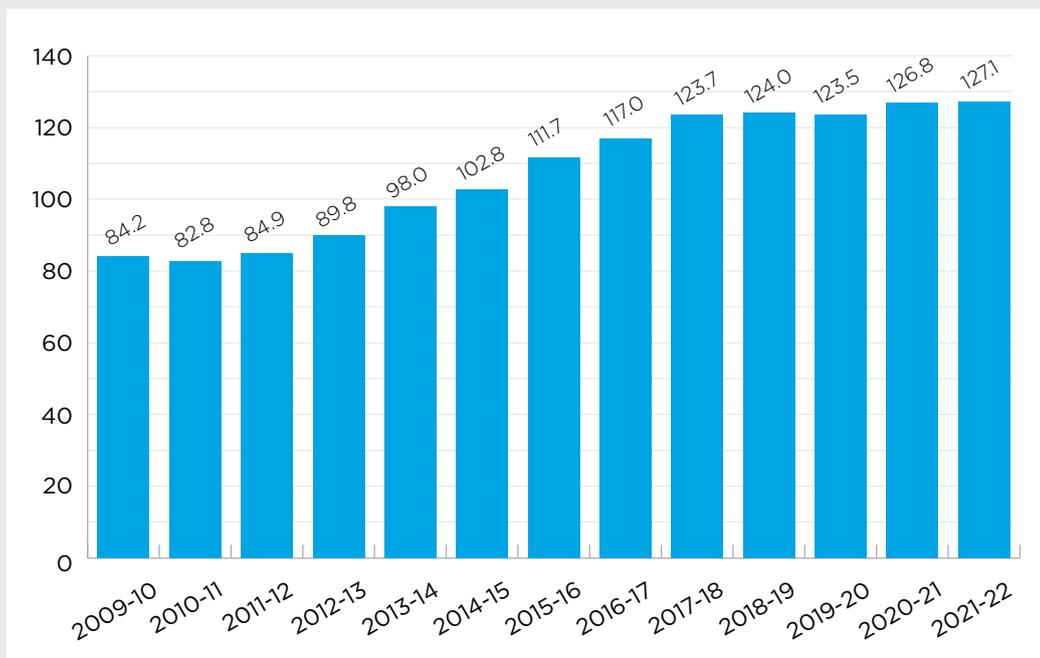
Utilisation of Queensland prisons 2009–2022

The growth in prisoner numbers after 2012 led to the utilisation of Queensland prisons exceeding 100% in the years that followed – that is, Queensland prisons became overcrowded. In this regard, the *Queensland Parole System Review Final Report* noted:

Between 31 January 2012 and 30 September 2016, Queensland experienced a 41.6 per cent increase in prisoner numbers, from 5,604 to 7,938 ... with Aboriginal and Torres Strait Islander prisoners accounting for 31.3 per cent of the prison population (2,482 prisoners). As at 30 September 2016, there were 7,291 prisoners in high security facilities, with a built capacity of 6,138. In other words, QCS was holding 1,153 more prisoners than it has been designed for, putting the prison system at 118.8 per cent capacity.

Graph 2 below shows the level of utilisation of QCS facilities (prisons) in terms of built cell (or design) capacity since 2009–10.

Graph 2 – Utilisation of Queensland’s correctional facilities, %, FY 2009–22

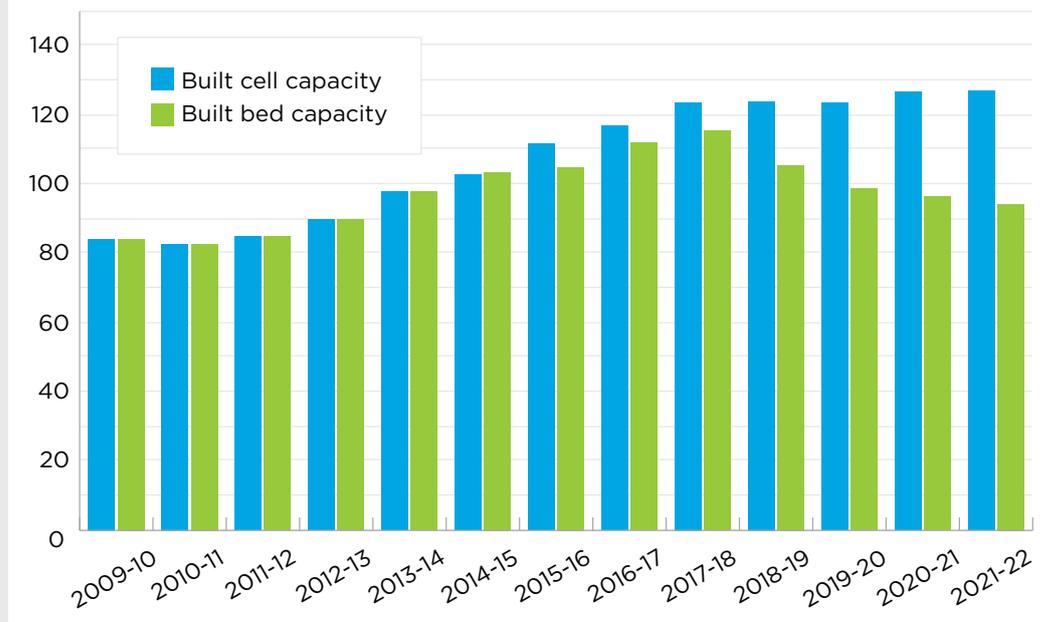


Source: QCS and earlier department annual reports

Graph 2 shows that from 2013–14, the utilisation level exceeded QCS’ 90–95% target, and from 2014–15, it exceeded 100%. Consequently, Queensland’s corrective services system can be considered to have been overcrowded since at least 2014–15. The extent of overcrowding continued to increase in the years that followed.

To fully understand the current overcrowding situation in Queensland’s correctional facilities, it is worthwhile to compare the overcrowding of Queensland’s corrective services system from its design (or built cell) capacity perspective (as set out above) and its built bed capacity perspective.

Graph 3 – Facility utilisation, built cell versus built bed capacity, %, FY 2009–22



Source: QCS and earlier department annual reports (built cell capacity); and Australian Productivity Commission, RoGS (built bed capacity)

Graph 3 shows that while the built cell capacity has been exceeded since 2014–15, built bed capacity was only exceeded from 2014–15 through to 2018–19. This reflects the increased built bed capacity that arose from the implementation of the bunk bed program and some custodial infrastructure expansion projects being completed. Under the bunk bed program since 2017–18, thousands of double bunk beds have been retrofitted into cells originally designed for individual prisoners. In essence, this means that while there are not enough cells across Queensland’s prisons to enable each prisoner to be accommodated in their own cell, since 2019–20, there have been enough built beds across the corrective services system as a whole. However, as explained below, at Arthur Gorrie Correctional Centre and Borallon Training and Correctional Centre, even the built bed capacity is still not sufficient.

Current overcrowding of Queensland prisons

The following snapshot of prisoner numbers, built cell capacity and built bed capacity across Queensland's correctional facilities as at 15 August 2023 was compiled by Ombudsman officers from QCS' Integrated Offender Management System.

Table 1 – Total prisoner numbers, built cell capacity and built bed capacity across Queensland correctional facilities as at 15 August 2023			
	Total prisoner numbers	Built cell capacity	Built bed capacity
Secure custody corrective services facilities for men			
Arthur Gorrie Correctional Centre	1,413	890	1,002
Borallon Training and Correctional Centre	808	492	736
Brisbane Correctional Centre	907	560	977
Capricornia Correctional Centre	946	760	967
Lotus Glen Correctional Centre	969	696	1,049
Maryborough Correctional Centre	695	500	824
Townsville Correctional Centre	706	505	839
Wolston Correctional Centre	863	600	1,130
Woodford Correctional Centre	1,506	1,008	1,638
TOTAL	8,813	6,011	9,162
Secure custody corrective services facilities for women			
Brisbane Women's Correctional Centre	314	267	379
Southern Queensland Correctional Centre	302	302	312
Townsville Women's Correctional Centre	206	154	214
TOTAL	822	723	905
Low custody corrective services facilities			
Capricornia Correctional Centre (Farm)	81	96	96
Helana Jones Centre	20	26	26
Lotus Glen Correctional Centre (Farm)	114	124	124
Numinbah Correctional Centre (Female)	107	119	119
Palen Creek Correctional Centre	156	170	170
Townsville Correctional Centre (Male Farm)	92	78	78
Townsville Correctional Centre (Female Farm)	46	42	42
TOTAL	616	655	655
Source: QCS data			

Across the whole of the corrective service system, on 15 August 2023, there were 10,251 prisoners; built cell capacity of 7,389; and built bed capacity of 10,722. Queensland's system as a whole was overcrowded, with a gap of 2,862 cells between the number of cells available and providing each prisoner with his or her own cell.

The worst overcrowding was in male secure custody corrective services facilities. The number of male prisoners in secure custody (8,813) exceeded the built cell capacity (6,011) but was less than the built bed capacity of those facilities (9,162). Two secure custody facilities for men were overcrowded in terms of built cell capacity and built bed capacity: Arthur Gorrie Correctional Centre and Borallon Training and Correctional Centre.

Women’s secure custody correctional facilities were also overcrowded, with prisoner numbers exceeding built cell capacity. Prisoner numbers in both Townsville Women’s Correctional Centre and Southern Queensland Correctional Centre are becoming concerning close to built bed capacity.

Low custody corrective services facilities were not overcrowded as a whole.

Forecast growth in prisoner numbers

The rapid increases in prisoner numbers from 2012–13 onwards show the importance of active monitoring and forecasting of prisoner population increases as a basis for planning future investment in the corrective services system.

QCS advised that it manages these issues through the System Configuration Executive Group (SCEG). The SCEG’s functions include monitoring and managing state-wide custodial accommodation of prisoners, state-wide prisoner numbers, trends and projected growth. Prisoner forecasts are calculated using a stock and flow simulation model developed in-house by QCS – the Corrections Projection Model (further information can be found at Appendix B). The model produces forecasts for low, medium and high growth scenarios.

QCS provided this Office with a copy of the annual five-year prisoner number forecasts by the year they were produced from 2018 to 2022.

In January 2018, the modelling forecast the number of prisoners in August 2023 to range from 9,241 in its low growth forecast to 10,386 in its high growth forecast. As noted above, the actual number of prisoners in August 2023 was 10,251, which was within the forecast range, albeit towards the higher growth forecast rate.

The January 2022 forecasts of prisoner numbers by growth scenario provided by QCS are set out below.

Table 2 – January 2022 forecasting

Forecast date	Low growth	Medium growth	High growth
June 2023	8,969	9,414	10,607
June 2024	9,065	9,548	10,901
June 2025	9,179	9,682	11,107
June 2026	9,299	9,819	11,292
June 2027	9,419	9,953	11,465

Given the significant impact of overcrowding on prisoners, prison officers and public expenditure, it would be beneficial for QCS to publish its annual prisoner number forecasts on its website. Doing so would support open and transparent government in an important area of public policy, detail the range of strategies proposed to address it, and provide the community with the basis to understand the potential extent of future overcrowding.

Recommendation 2

QCS publish on its website its annual forecasts of prisoner numbers for the five years following the year in which the forecast is made.

QCS response

In the beginning of each calendar year, QCS produces estimates of the size of future prisoner populations for QCS operational and planning needs. QCS agrees that increasing the information that is publicly available on current and expected demand in the correctional system will assist the public and stakeholders in understanding and assessing the potential strategies that could be utilised to respond. Noting that the report includes forecasting data prepared in 2022, QCS will publish updated data in 2024 following its annual forecast review.

Ombudsman comment

I note the Commissioner's response.

Why is overcrowding a problem?

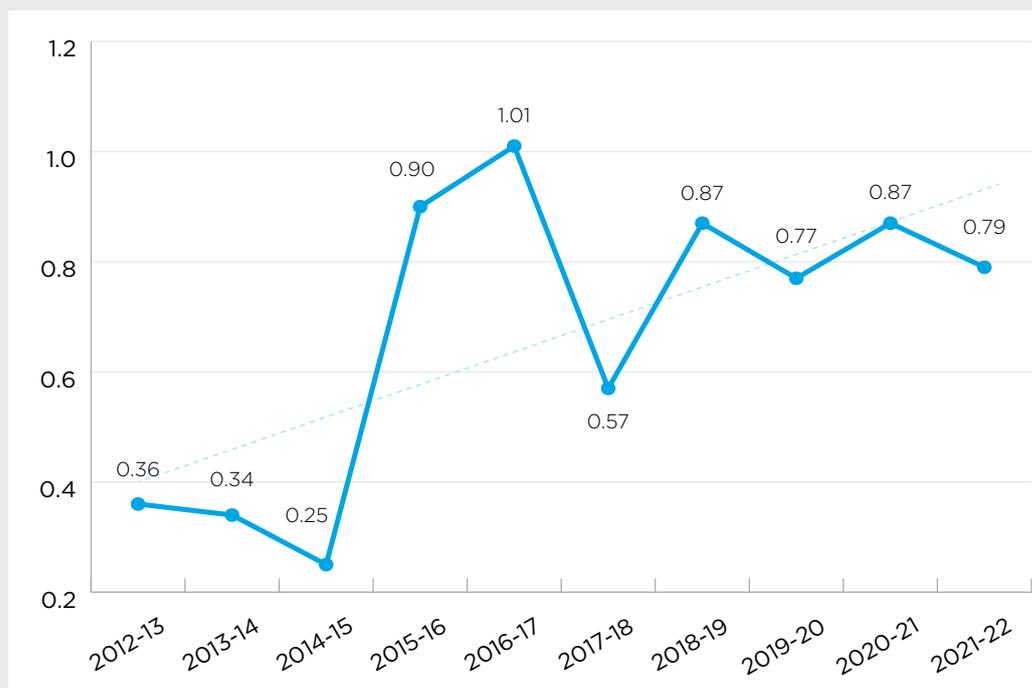
Overcrowding detrimentally impacts prison officers and prisoners, and places strain on prison infrastructure. QCS recognises that shared cells and additional prisoners accommodated in residential units is not ideal and that it presents additional challenges for CCOs and prisoners (see Appendix B).

Impacts on prison officers

A key issue raised in the reference was the impact of overcrowding on the health and safety of CCOs.

In its 2019 Taskforce Flaxton report, the Crime and Corruption Commission observed overcrowding can increase prisoners' anger and frustration and increase the risk of serious assaults against staff. Its analysis of data in the five years prior to the report showed prisoner-on-staff assaults had increased as the utilisation rate of prisons increased. The following graph, sourced from the Australian Productivity Commission RoGS, shows trends in prisoner-on-officer assaults in the financial years 2012-13 to 2021-22.

Graph 4 – Prisoner-on-officer assaults, rates per 100 prisoners, 2012-22



Source: Australian Productivity Commission, RoGS reports for 2023 and 2021

The most extreme increase in assault rates on officers was from the years 2014-15 through to 2016-17, which coincides with the initial periods of accelerated growth in prisoner numbers, and the onset of overcrowding (see Graphs 1 and 2 above). Also, according to the Queensland Parole System Review, the initial responses to overcrowding were often crude, with extensive reliance on double up placements in cells designed for individual prisoners, using temporary bunk beds, trundle beds and mattresses. These conditions could result in prisoners sleeping with their heads next to a door or an exposed toilet.

From 2017-18, the rate of assaults reduced somewhat, although it continued to remain above 2014-15 levels. This reduction may be associated with additional staffing, additional cells being commissioned and the rollout of the bunk bed program. Rates of assault from 2020 onwards are likely affected by the management of Covid-19 in prisons, including measures that reduced prisoner movements and time out of cells.

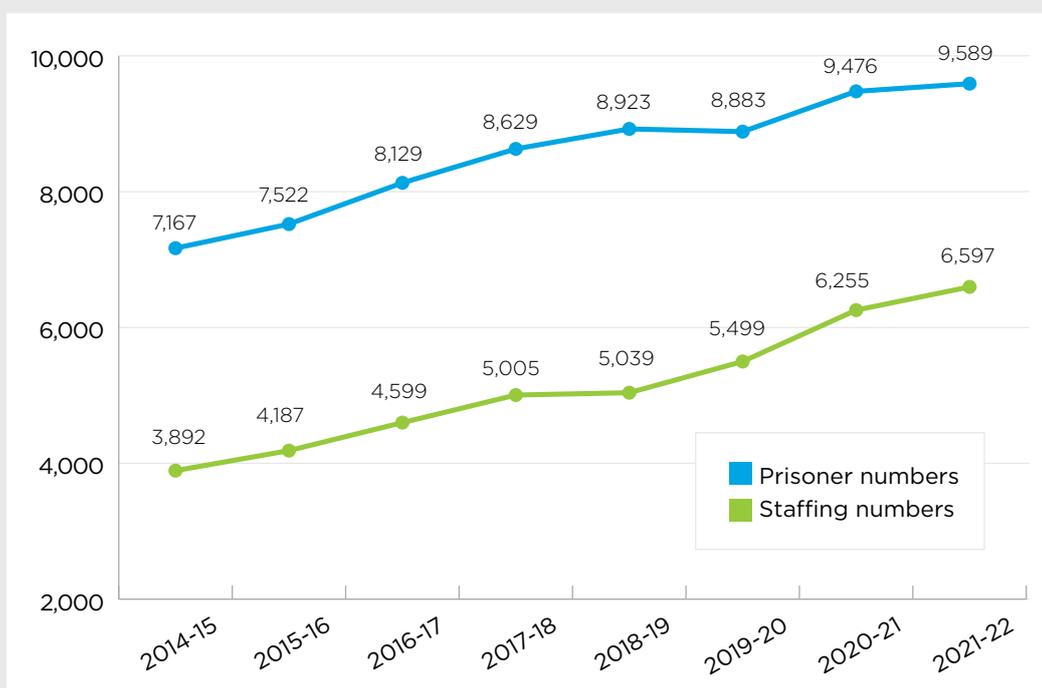
Considered overall, the above data shows the observation of Taskforce Flaxton in 2019 that overcrowding of prisons has coincided with increased rates of assaults on prison officers has continued to the present.

Overcrowding has other impacts on officers, such as the increased administrative burden of making accommodation decisions for prisoners, particularly decisions about which prisoners should share cells with which other prisoners (this issue is considered further in Chapters 4 and 5). In its Taskforce Flaxton report, the Crime and Corruption Commission also observed overcrowding created an increased risk of corrupt conduct.

When QCS was asked for comment on issues impacting staff, it advised it is increasing frontline staff numbers and promoting an integrated and coordinated approach to officer health, safety and wellbeing (see Appendix B).

In relation to increasing staffing, QCS advice in October 2022 was that it had budget full-time equivalent (FTE) staff of 6,245 for 2020-21, representing an increase of 480 staff from the 2019-20 adjusted budget of 5,765 FTEs. As shown in Graph 5, this growth in staff reflects similar growth in the years since overcrowding began.

Graph 5 – Growth in prisoner and staffing numbers, FY2014-2022



Source: Corrective Services Delivery Statements and Queensland State Budget papers (staffing numbers); Australian Productivity Commission RoGS reports for 2023 and 2021 (prisoner numbers)

QCS also cited a number of health and safety initiatives to respond to safety impacts on officers, including:

- partnering with Workplace Health and Safety Queensland to improve systems and practices for health, safety, injury management and wellbeing
- site visits and reviews of the QCS safety management system conducted after being significantly impacted by restrictions associated with the pandemic
- participating in the Injury Prevention and Management Program facilitated by the Office of Industrial Relations
- allocation of additional body worn cameras
- undertaking the Officer Safety (Use of Force) Review.

More information about these initiatives is available in Appendix B.

Impacts on prisoners

Overcrowding has a significant impact on prisoners. The Crime and Corruption Commission in its Taskforce Flaxton report outlined those impacts as follows:

Overcrowding affects virtually every aspect of the custodial environment. It increases prisoner demand for infrastructure, resources and services, and changes the way custodial services are delivered. For example, overcrowding:

- Makes prisoner classification and separation difficult. A lack of adequate space sees prisoners doubling up in cells originally designed for one person or accommodated on mattresses in common areas in residential units. Failing to appropriately separate vulnerable prisoners or prisoners who committed minor offences from more serious and violent offenders undermines prisoner safety and can lead to further criminalisation.
- Negatively affects the provision of efficient and effective health care services to prisoners. A recent review of offender health services in Queensland found that there is limited capacity for these services to cope with overcrowding due to the finite physical footprint of prison health centres.
- Places strain on critical prison infrastructure, systems and utilities (e.g. water, sewage, sanitation, heating and cooling), which can negatively impact prisoner health.
- Further deprives prisoners of their already limited access to resources, including access to kitchen equipment and telephone calls.
- Diminishes prisoners' capability for a meaningful "constructive day" and could lead to breaches of international obligations. Where prisoners are not meaningfully occupied through time-out-of-cell or participation in employment programs, education or rehabilitation programs, boredom can set in.
- Is related to decreases in prisoner employment and time-out-of-cell. Less time-out-of-cell was also related to more prisoner-on-prisoner assaults, self-harm incidents, and incidents requiring the use of force.

Similar impacts have been identified in other independent reports.

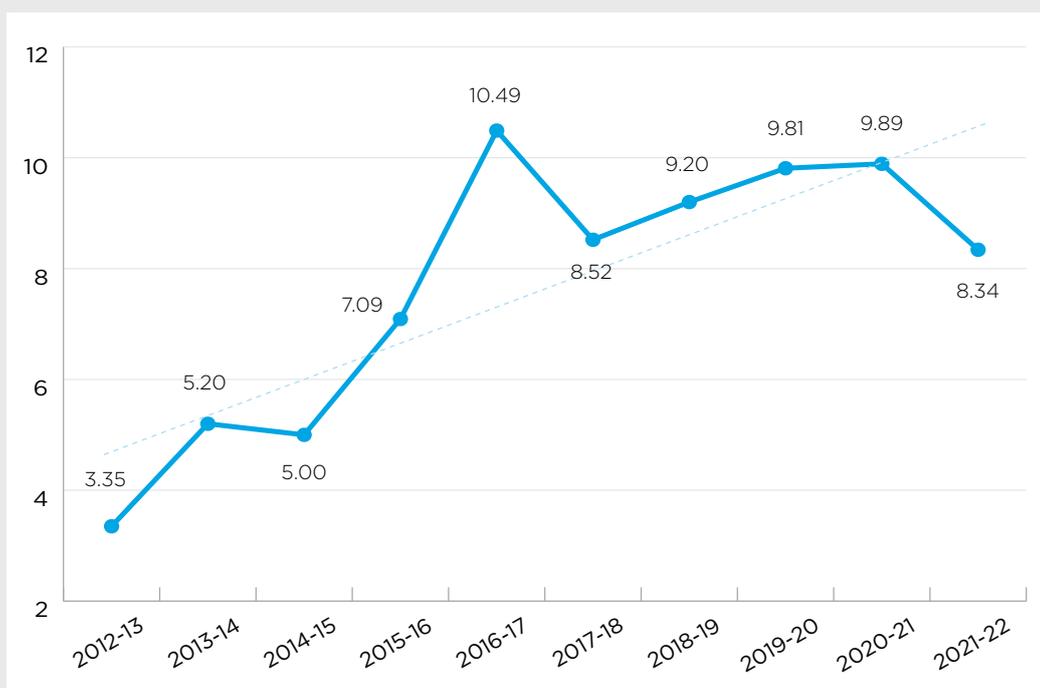
For example, the New South Wales Inspector of Custodial Services in its 2015 report [Full House: The growth of the inmate population in NSW](#) noted:

Confining two or three inmates to cells designed for one or two for prolonged periods, where they shower, eat and defecate, inevitably raises tensions in an already volatile population. The experience in other jurisdictions has been that this potentially increases the risk of assault, self-harm and suicide and more general prison disorder. Rehabilitation outcomes are also compromised when inmate numbers are increased without a commensurate increase in appropriate resources. Overcrowding limits opportunities for parole because access to required programs is constrained. Reduced access to work and limited contact with families contribute to the creation of an unproductive environment.

Just as there is a correlation between overcrowding and rates of prisoner-on-officer assaults, the rates of prisoner-on-prisoner assaults has also increased.

The following graph, sourced from the Australian Productivity Commission RoGS, shows trends in prisoner-on-prisoner assaults in the financial years 2012-13 to 2021-22. The interpretative observations about Graph 4 above apply equally to Graph 6.

Graph 6 - Prisoner-on-prisoner assaults, rates per 100 prisoners, 2012-22



Source: Australian Productivity Commission, RoGS

Another impact of overcrowding on prisoners is reduced out of cell time. According to the Australian Productivity Commission RoGS reports for 2023 and 2021, time out of cells (average hours per day) in Queensland declined from 11.2 hours in 2010-11 (prior to the onset of overcrowding) to only 8.4 hours in 2021-22. In 2019-20, the last reporting year before Covid-19 responses may have significantly impacted time out of cells, the number of hours was 9.0 hours. This represents a decline of 19% in time out of cells between 2010-11, when prisons were not overcrowded, and 2019-20.

One reason for the decline is that when centres are overcrowded, or when there is insufficient available staffing, out of cell time can be reduced by the use of 'modified unit routines' (MURs), where only half the prisoners in an accommodation unit are allowed out of cells at a time (e.g. one group in the morning, the other in the afternoon), leading to significantly reduced time out of cells for prisoners.

During the visit to MCC, advice was received that prisoners in secure custody were out of their cells for only four to nine hours per day, depending on the management routine for the particular unit. Further information is contained in the next chapter.

In addition to increased assaults and reduced out of cell time, overcrowding also impacts on prisoners through the requirement for them to share cells designed for one prisoner, sometimes referred to as 'doubling up'.

There are several potential negative impacts of 'doubling-up', including lack of privacy and safety, and increased potential for violence. The studies currently available in a European context seem to suggest that the impact of cell sharing in overcrowded conditions is especially negative, linking it to tense prison social climates, higher levels of assault, bullying and increased rates of suicide and self-harm. While research conducted in Ireland on the issue of cell sharing reveals a relationship between cell sharing and wellbeing for some prisoners, it indicates that cell mate relationships may be more important than cell type in influencing wellbeing (Muirhead, Butler & Davidson, 'Behind closed doors: An exploration of cell-sharing and its relationship with wellbeing', *European Journal of Criminology*).

While the bunk bed program has reduced some of the worst impacts of shared cell agreements (such as prisoners being required to sleep on mattresses on the floor with their head close to the cell's toilet or door), significant problems remain.

During the investigation's visit to MCC, many secure custody cells were observed in which two prisoners were accommodated on double bunks in small cells originally designed for a single prisoner, with access to a single desk, toilet and shower. Other visits to correctional centres by this Office indicate that double bunks are of varying quality, with not all having ladders to the top bunk, for example.

Based on observations during the above visit, the following extract from the 2021 Capacity Utilisation Review of the Office of the Custodial Inspector of Tasmania about similar cells in Tasmania's prisons is applicable:

In terms of toilet and ablution facilities, the lack of fully partitioned rooms in cells for ablutions means that toilets must be used in front of other prisoners. While showers are partially screened, the space is minimal ... Dressing normally occurs in the limited habitable space of the cell. Similarly, it is difficult to fully accommodate the sleeping and relaxation needs of prisoners in a shared cell environment. All of these factors impact on the mental health, dignity and privacy of prisoners through the inability to keep the private and personal aspects of their lives separate from another prisoner.

During the MCC visit, prisoners and staff discussed the mental health impacts on prisoners of sharing cells. Further information about this is contained in the next chapter.

Impact on service delivery and infrastructure

A lot of the concern about overcrowding is justifiably on the safety of officers and the individual experiences of prisoners within cells. However, as noted above in the Taskforce Flaxton and New South Wales Inspector of Custodial Services reports, overcrowding also causes broader cumulative impacts across prisons, as services and facilities designed for a smaller number of prisoners are required to meet the needs of many more.

The Queensland Ombudsman's 2016 report on overcrowding at Brisbane Women's Correctional Centre provides an important case study of how overcrowding can reduce access to services by prisoners including:

- offending behaviour and substance abuse programs
- education and training
- health services
- psychology services
- recreational activities.

During the MCC visit, prisoners and staff identified the following impacts on prison infrastructure arising from overcrowding:

- pressure on the kitchen and facilities for food storage
- insufficient interview rooms
- not enough seats for prisoners to sit on when all prisoners are out of their cells
- insufficient rooms for psychological assessments, therapy sessions and programs
- plumbing no longer adequate.

Overcrowding at centres also means there are not sufficient numbers of cells in detention units to accommodate all prisoners on safety orders, with some needing to remain accommodated in secure units while on the restrictive conditions of a safety order.

Impact of overcrowding on QCS' humane containment objective

The impacts of overcrowding challenge QCS' capacity to achieve its purpose of humane containment of offenders, as set out in s 3 of the CS Act:

- (1) The purpose of corrective services is community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders.

The humane containment purpose of the CS Act aligns with s 30 of the HR Act, which provides that: 'All persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.'

When considering what constitutes humane containment, it is important to have regard to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The Explanatory Notes to the recently enacted *Inspector of Detention Services Act 2022* identified that the Nelson Mandela Rules are generally accepted as good principles and best practice for the management of detained people.

Rule 12 of the Nelson Mandela Rules provides that:

Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

Consistent with Rule 12, s 18 of the CS Act provides that: 'Whenever practicable, each prisoner in a corrective services facility must be provided with his or her own room.' While s 5A of the CS Act allows for exemptions from the HR Act to apply to the application of s18 in certain circumstances, it stands as an expression of Parliament's intent for how prisoners ought to be accommodated.

Clearly, the accommodation of prisoners is a matter relevant to QCS' statutory objective of humane containment. An area of administrative action that is important to QCS' pursuit of this objective is how it advises government about its correctional facility capital program.

The task of closing the current gap of around 2,862 between the number of prisoners and the cells available to accommodate them is a significant one, particularly given the long lead time of capital projects to build new cells. Added to this is the need to continue to accommodate a growing number of prisoners, and the desirability of returning to a 90-95% facility utilisation rate. Also, QCS' own forecasts are that prisoner numbers are likely to continue to grow in Queensland in the years ahead.

As noted above, QCS' new prison, Lockyer Valley Correctional Centre, due to open in early 2024, will accommodate approximately 1,536 prisoners across 842 cells. This centre will undoubtedly relieve some of the strain on the state's prison system when it is officially commissioned. The ongoing challenge for QCS is to continue to provide options to the government for a building program that will create the extra capacity needed to reduce the impacts of overcrowding.

In recent years, QCS has relied to a significant extent on its built bed program to address overcrowding. The utilisation of bunk beds is no doubt a faster and cheaper option than building more prison cells. However, the widespread and ongoing installation of bunk beds has also normalised a situation where our prisons are being expected to contain significantly more prisoners than the number for which they were originally designed. Relying on bunk beds as the long-term solution to overcrowding in Queensland prisons involves accepting increased strain on prison infrastructure, continuing impacts on prisoners' mental health, dignity and privacy, and risks to the safety of custodial officers – and in so doing presents a fundamental challenge to QCS achieving its statutory objective of humane containment.

While bunk beds will undoubtedly remain an ongoing part of our prison system, it remains important for QCS to continue to advise the government of the importance of continued investment to expand the number of cells available for prisoners, so as to reduce the harmful impacts of overcrowding over time.

Based on the analysis of current levels of overcrowding in Table 1, priorities for QCS' advice on options should include addressing chronic overcrowding at Arthur Gorrie Correctional Centre and increasing built cell capacity for female prisoners.

In responding to the proposed report (see Appendix D), QCS advised its current capital program includes the following key initiatives that aim to address capacity issues:

- \$861 million (\$341 million in 2023-24) to build the new 1,536 bed health and rehabilitation designed Lockyer Valley Correctional Centre (LVCC)
- \$9 million (\$1 million to complete round 3 in 2023-24 plus \$8 million in released central funds for round 4) to install additional bunk beds in high security correctional centres across Queensland to manage the increasing prison population
- \$3 million (\$1 million in 2023-24) to complete the refurbishment of the Princess Alexandra Hospital Secure Unit
- \$20 million in 2023-24 for pre-commencement activities including design works, site investigations and other preliminary works for the future expansion of the Townsville Correctional Precinct
- \$10 million in 2023-34 for pre-commencement activities including design works, site investigations and other preliminary works for the future establishment of a new Wacol Precinct Enhanced Primary Health Care facility located at the Brisbane Correctional Centre.

Recommendation 3

In recognition of the importance of humane containment, QCS develop and provide advice to government on options to expand the number of cells available to accommodate prisoners on an ongoing basis and to reduce the harmful impacts of overcrowding over time. Priorities for QCS advice on options should include addressing chronic overcrowding at Arthur Gorrie Correctional Centre and increasing built cell capacity for female prisoners.

QCS response

QCS will continue to develop and provide advice to government on responses to address current and future capacity needs.

Notably, QCS has identified the Arthur Gorrie Correctional Centre – General Medical Facility Expansion as infrastructure required to support growth, as part of the draft South East Queensland Infrastructure Supplement.

QCS is also reviewing the system configuration for South Queensland with a focus on remand placement options following the commissioning of LVCC.

For female prisoners, QCS is implementing the funded recommendations from the Women's Safety and Justice Taskforce and is increasing low custody capacity to provide more options for women in custody to be housed in the least restrictive accommodation available.

Ombudsman comment

I note the Commissioner's response and consider the proposed supports to the Arthur Gorrie Correctional Centre; remand placement options at the Lockyer Valley Correctional Centre; and the implementation of recommendations from the Women's Safety and Justice Taskforce for female prisoners to be positive steps that are consistent with my recommendation.

Responses to overcrowding

There have been a range of responses to overcrowding since 2012-13. These responses have been explored in the independent reports and inquiries referred to above.

In response to the proposed report, QCS advised it has implemented a number of short-, medium- and long-term strategies to address current capacity constraints (See Appendix D), including:

- the delivery of purpose built bunk beds retrofitted to cells across Queensland to get prisoners off mattresses on the floor, meaning that by the end of 2024, approximately 6,000 additional beds including more than 3,400 bunk beds will have been delivered since 2015
- an additional 736 beds across 492 cells through the re-commissioning of Borallon Training and Correctional Centre
- the conversion of the Southern Queensland Correctional Centre to a women's facility in 2019, providing immediate relief to the women's correctional system
- an expanded Capricornia Correctional Centre, delivering an additional 398 beds across 348 cells

- additional capacity solutions over and above LVCC and the Townsville Correctional Precinct
- potential lower cost capacity solutions, for example low/medium security variants
- alternate building strategies using modern methods of construction to reduce the lead time for new accommodation.

In addition to the actions outlined above, the Queensland Government has released strategies to address, among other things, drivers of growth in prisoner numbers, such as:

- the Queensland Government response to the 2016 Queensland Parole System Review's wide-ranging recommendations to improve Queensland's parole system, which supported many recommendations relating to rehabilitation programs and re-entry services. QCS has reported that all recommendations that were supported have been completed or closed
- the Queensland Government response to the 2019 Queensland Productivity Commission Inquiry into imprisonment and recidivism, which listed a range of activities that would be undertaken to improve QCS' rehabilitation and reintegration programs
- collaborating with the Justice Reform Office in the Department of Justice and Attorney-General and other Queensland Government stakeholders, which includes consideration of initiatives to reduce demand on Queensland's prisons.

As noted at the beginning of this chapter, most of the above actions are the result of Cabinet decisions. The Ombudsman must not question the merits of a Cabinet decision, or a decision made to implement a Cabinet decision. Accordingly, this investigation does not seek to critically assess the full range of government responses to overcrowding.

Conclusion

Queensland's prisons have been overcrowded since 2014-15, with resultant impacts on officers, prisoners and prison infrastructure. The responses to overcrowding have included increased staffing levels, increased number of prison cells, fitting cells with bunk beds, and workplace health and safety initiatives. While these responses have addressed some of the impacts of overcrowding, more needs to be done to address the ongoing significant impacts and risks to officers and prisoners that it continues to create across the corrective services system.

QCS should recognise that these risks and impacts, when considered together, fundamentally challenge its capacity to deliver its statutory objective of humane containment.

To address this, QCS should prioritise the development of a range of responses to these risks and impacts, including:

- continued improvement to workplace health and safety responses to safety risks for custodial officers
- continued improvement to QCS reintegration and rehabilitation programs
- assessing, and developing responses, to the current and forecast future impacts of overcrowding on access by prisoners to services such as offending behaviour and substance abuse programs; education and training; health services; psychology services and recreational activities
- assessing, and developing responses, to the current and forecast future impacts of overcrowding on prison infrastructure such as interview rooms, videoconferencing facilities, education and training facilities, health facilities, detention and safety units, kitchens, storage and plumbing

- reviewing staffing models to ensure that they are fit for purpose to deal with the impact of the growth of prisoner numbers and overcrowded prison environments
- ensuring the availability of psychology services to support prisoners in shared cell agreements
- developing options to improve the configuration of existing and future shared cells to reduce the impacts on the mental health, privacy and dignity of prisoners
- strategies to increase out of cell time for prisoners, including reducing the application of modified unit routines and lockdowns
- improving how decisions about sharing cells are made, including the requirement for thorough risk assessments
- ensuring that the special legal status of remand prisoners is given adequate consideration in accommodation decisions in regional prisons.

This office recently published *Inspection standards for Queensland prisons* under the IDS Act. The standards address many of the above issues relevant to this investigation. The program of inspections of prisons and subsequent reports to Parliament under the IDS Act will assess the progress that QCS makes in addressing the issues.

Recommendation 4

QCS should prioritise the development of responses to the range of impacts of overcrowding identified in this report.

QCS response

QCS, as a priority, will continue to progress and further consider the development of responses to address the impacts of high prisoner numbers, including considerations related to workplace health and safety, reintegration and rehabilitation programs, availability of services, prisoner access to services, staffing models, infrastructure capacity and condition limitations, shared cell agreements, out of cell time, the use of modified unit routines and lockdowns, and the legal status of remand prisoners when making accommodation decisions in regional prisons.

The ability for each potential initiative to reduce the impact of high prisoner numbers will be considered, such as its impact on the health and safety of Custodial Correctional Officers, administrative burden of making accommodation decisions for prisoners (particularly shared cells), corrupt conduct, influences for further criminalisation, prisoner access to health care, strain on infrastructure, prisoner employment, out of cell time, prisoner self-harm and suicide, access to parole, prisoner on prisoner assaults, and prisoner access to psychological assessments and programs.

Ombudsman comment

QCS' response is positive as it acknowledges the challenges and work to be completed to address the issues in question. I note this is a large task and will take considerable time and effort to achieve.

3. Overcrowding at Maryborough Correctional Centre

What the effects are of overcrowding within Maryborough Correctional Centre with respect to the prison population and health and safety of the custodial officers, and whether QCS is managing this reasonably

Introduction

The reference included concerns about the effects of overcrowding at MCC on both prisoners and prison staff. It stated overcrowding had resulted in instability among the prison population, heightened personal safety risks, and psychological pressures from high workloads.

Overview of Maryborough Correctional Centre

MCC is a high security correctional facility located just north of Maryborough. The prisoner population includes mainstream and protection prisoners who are accommodated in secure and residential units. Like many regional correctional centres, MCC accommodates both prisoners who have been sentenced and those who are remanded.

MCC has a capacity of 500 built cells and 784 built beds. It is overcrowded, with the number of prisoners it accommodates exceeding its built cell capacity for many years. The level of overcrowding has fluctuated in recent years:

- 730 prisoners in October–November 2021
- 615 in August 2022
- 770 in March 2023
- 695 in August 2023.

Of the 695 prisoners in August 2023, 220 or 31% identified as Aboriginal and Torres Strait Islander.

In recent years, MCC has faced a number of significant operational challenges. These include the impacts of Covid-19 responses, such as managing lockdowns and reduced staffing. Significant changes in the number of prisoners at MCC in recent years has compounded those challenges.

This Office has visited MCC prior to this investigation during its correctional visits program over the years. As a result of the last visit to MCC in 2019, this Office made observations about the impacts of overcrowding, particularly with respect to MURs and prisoners on safety orders accommodated in secure units.

Impacts of overcrowding on prisoners at MCC

As explained in Chapter 2, overcrowding in prisons impacts prisoners in many ways, including having to share cells, increased volatility among prisoners, reduced access to services, and pressure on facilities and infrastructure. In this chapter, we explore these impacts at MCC.

Sharing cells

The most obvious impact of overcrowding is the need for prisoners to share cells.

At the time of this Office's visit to MCC in October 2022, the extent of cell sharing required was lower than at periods of higher prisoner numbers.

Prisoners have around nine hours out of their cell on a normal day at MCC. In other words, they are locked inside their cell, with another prisoner if they are sharing the cell, for around 15 hours each day. Out of cell time is reduced when there are lockdowns or when MURs (discussed in Chapter 2) are implemented. Prisoners at MCC told us that during the peak period of Covid-19 lockdowns, they were only out of their cells for about four hours a day.

Given the amount of time the prisoners at MCC are locked in their cells, it was not surprising to hear from them that sharing a cell can have psychological effects such as depression and anxiety. A staff psychologist advised investigators that when prisons are overcrowded, prisoners are more likely to 'act out' (e.g. rioting) or 'act in' (e.g. depression and self-harm).

While there were a small number of 'buddy cells' designed for two prisoners to share in the MCC accommodation units, most of the cells were smaller and designed for one prisoner. Bunk beds have been installed in most of these smaller cells. Some prisoners say the bunk beds are uncomfortable and that it can be dangerous for some prisoners to get up onto the top bunk. One prisoner in a residential unit had chosen to sleep on a mattress on the floor in the common living area rather than in the bunk bed in the small cell that he was sharing with another prisoner.

In the secure units, the cells include a single toilet and single shower. It was observed during the inspection of secure unit cells that there would be little if any privacy for these activities when prisoners were required to share a cell. It was clear that it would be very difficult for two people to move around at the same time in the cell. Storage is limited for a single prisoner, let alone two, and there was only a single desk and one fixed seat in the cell.

Increased volatility among prisoners

The workplace health and safety (WHS) officers stressed the connection between overcrowding and volatility among prisoners, advising that when more prisoners come into the prison, it creates more issues and more trouble. They observed that tensions also rise during lockdowns.

The General Manager confirmed the above view and advised that when MCC lost staff during Covid-19, the centre was forced to impose lockdowns, which made the prisoners unhappy and abusive.

However, the same WHS officers also considered that CCOs had better techniques than a decade ago for managing prisoners, and this reduced anger among prisoners. They attributed this to factors such as training, strong messaging from management, human rights considerations, cameras and other technology, and increased accountability for officers.

The prisoners spoken to did not raise concerns about assaults. However, in its Operational Performance Report, MCC reported 222 assaults on prisoners for the period 1 July 2020 to 30 June 2021, compared to 151 assaults on prisoners reported during 2019–20. It is acknowledged that Covid-19 had some impact on these statistics, with prisoners likely having been locked down at some points during this period.

Reduced access to services and issues with facilities

In terms of access to services, prisoners said access to programs at MCC was deficient, meaning prisoners are unable to do the basic programs required to assist their rehabilitation and progression. Prisoners did not consider there were enough industries at the prison for the number of prisoners. Access to psychologists and medical staff was also considered to be affected.

Prisoners expressed concern about access to basic facilities, such as a lack of chairs in common areas, especially if all prisoners are out of their cells at the same time, and that the plumbing in one unit was not coping with the number of prisoners and often stank.

Infrastructure limitations also affect the human rights of prisoners. For example, the report on our 2019 visit previously raised concern with QCS about MCC's practice of requiring some prisoners on safety orders who are accommodated in a secure unit to be moved to the detention unit each day for their legislated out of cell exercise time. This practice required a removal of clothing search each time the prisoner entered and exited the detention unit.

Impacts of overcrowding on staff at MCC

During the visit to MCC, it was evident staffing levels were an issue of concern. Low staffing levels had combined with Covid-19 responses and high prisoner numbers at various times to create a very difficult situation for staff.

Prior to Covid-19, prisoner numbers were low (fewer than 600 prisoners) and staffing numbers were at inconsistent levels from a low of 224 FTEs to 243 FTEs. During Covid-19, prisoner numbers started to rise, reaching a high of 724 prisoners in October 2021. At the same time, staff FTEs increased to 247. Prisoner numbers began to decrease from February 2022 and continued at pre Covid-19 levels for the rest of 2022. During 2022, staffing levels increased. Prisoner numbers began to rise again in early 2023 as staffing FTEs began to decrease.

Covid-19 affected staffing levels in a number of ways. For example, according to the General Manager, 20 staff were lost when QCS implemented the Queensland Health directive *Covid-19 Vaccination Requirements for Workers in a high-risk setting*. QCS advised that the daily operations of correctional centres were also impacted due to officers isolating after testing positive to Covid-19 or being close contacts of a positive case.

Shortly after the visit, the staffing problem was relieved in part by the addition of 18 new custodial officers, who were sworn into their roles on 4 November 2022. Another 13 new custodial officers were inducted on 19 May 2023.

In assessing the feedback from managers and staff about the impact of overcrowding on staff, it was not always clear whether the issues being raised were attributable to staffing levels, prisoner numbers or responses to Covid-19. In many cases, it was a combination of all three. While this report provides information about the impacts of overcrowding, other variables might sometimes be involved.

During the investigation, custodial and non-custodial officers spoke about how overcrowding and issues relating to it affect their working experience at the centre:

- An **additional administrative burden** is created for officers when organising prisoners to share cells, which they would not face if each prisoner was able to be allocated their own cell. This is particularly the case as new prisoners arrive at the centre or are transferred between units. As prisoner numbers increase, this task becomes inherently more difficult and time consuming. More detail about the process of organising shared cell agreements is contained in Chapter 4.
- There have been **staff shortages** across custodial and non-custodial staff, including absenteeism due to Covid-19. The centre lost staff due to the compulsory vaccination mandate that was introduced in 2021. It was reported to be a difficult time for the centre to manage staffing rosters, and this had a flow on impact on the management of prisoners.
- **Lockdowns** occurred more frequently because of staff shortages, in part due to Covid-19, and this has an impact on officers as they have to attend to prisoner needs individually (e.g. for medication or on some other basis).
- Staff spoke to investigators about the daily issues facing them when **managing more prisoners**, affecting resources, logistics and time. These issues included more chance of trouble between the prisoners; wear and tear on facilities across the prison; use of more resources and consumables; the potential for more accidents and incidents for staff and prisoners; strain on the kitchen; the need for more maintenance of facilities; less space for activities, therapy and programs; and the extra burden on the plumbing system. It was also noted by WHS staff that there is a lack of body worn cameras available for officers to use and to assist in their sense of safety.
- Staff indicated that, in their view, since the height of the Covid-19 pandemic, there had been an **increase in the number of domestic violence requirements** or activities. This is notably true for the intelligence area of the centre, which identified around 290 current domestic violence flags. The impact of this is that all incoming and outgoing mail for those prisoners needs to be checked, and this exponentially increases the workload for the already small team. If this trend continues, in their view, the intelligence team will struggle further.
- Some staff, particularly in the psychology unit of the centre, spoke about how overcrowding increased the workload on this team, which is operating under capacity, and increased the risk of **mental fatigue** and burn out. Staff explained the difficulty they have experienced in filling a vacancy, suggesting it is an 'undesirable' area for this occupation. The psychology services staff explained when prisoner numbers are high, there is increased pressure on this team, as this is when the centre is at its most volatile. Prisoners 'act out' by causing riots and fights, while some 'act in', inflicting self-harm and falling into depressive states. These behaviours depend largely on the cohort of prisoners within the centre at a specific time.
- Some staff informed this Office that it is common for **activities officers to be reallocated** to other shifts, therefore reducing out of cell time and unit time for prisoners. Similarly, education and programs staff informed this Office that team numbers are sometimes reduced when prisoner numbers decrease, and this affects the ability of the team to function and offer programs and activities to the prisoners, which in turn can be detrimental to staff morale.
- Investigators heard from WHS officers that **prisoner assaults on officers** were aggravated during Covid-19. MCC's Operational Performance Report showed that there were 30 assaults on officers during 2020-21, compared to 16 assaults on officers recorded for 2019-20.

- During the Covid-19 pandemic, more than 100 Aboriginal and Torres Strait Islander prisoners were dealing with sorry business. The **cultural development officers** were very busy dealing with mental health and wellness checks during that time, but officers reported the situation had improved.

MCC employee and WHS statistics

Employee statistics can often indicate when workforces are under stress. The reference to us by the LASC was made in late 2021. Accordingly, in assessing the concerns about the impacts on staff from overcrowding, the investigation referred to statistics leading up to 2021, rather than more recent years.

It has been difficult to reach any meaningful conclusions from the information provided by QCS in relation to these statistics, as there is likely to have been some impact by Covid-19 related health issues. For example, the annual turnover rate was impacted by the departure of 20 staff because of the Queensland Health directive *Covid-19 Vaccination Requirements for Workers in a high-risk setting*. Accordingly, it is not considered useful to make further comment or observations on this data.

At a meeting with staff on the Workplace Health and Safety Committee, they did not advise of increased health and safety reports arising as a result of overcrowding or lockdowns.

The General Manager advised that there had not been an increase in staff stress claims, staff absenteeism or Workcover claims, even when prisoner numbers were high in October–November 2021 (up to 730 prisoners).

According to the Operational Performance Report for 1 July 2020 until 30 June 2022, there were 73 physical injuries, 23 psychosocial injuries, and three physical with secondary psychological injuries claimed through Workcover at MCC.

The investigation also reviewed safety, health and environment hazard reports for MCC for the period 1 July 2020 to 30 June 2022. These reports did not show an excessive number of hazards reported by staff at the centre to indicate systemic problems. The hazard reports made were well detailed and the management of them seemed appropriate, with action taken and review of the action noted.

Management responses

The Workplace Health and Safety Committee was generally positive about how the General Manager and the management team had managed the issues raised in this chapter. It considered that the approach to mental health and wellbeing is sufficient.

The General Manager explained that, during Covid-19 times, a practice began of each centre reporting to QCS head office about the 'daily temperature check' of the centre. These daily checks became an important way for QCS to understand what was happening in each centre during a tumultuous period for all stakeholders involved.

The investigation considered a random sample of these daily temperature checks for a week in July 2022 and another week in October 2022. These checks indicated the pressures that were on the centre at that time, namely, prisoner numbers more than 600, short staffing that impacted on the daily management of the centre, and the challenges of effectively managing prisoners on safety orders.

While the application of MURs as an impact of overcrowding was noted in Chapter 2, the General Manager advised that at the time of our visit, MURs were not in use in S1 (one of the secure units), and that a return to normal out of cell time in that unit was working well. She was supportive of reducing the use of MURs in other secure units, but acknowledged that when prisoner numbers increased, it may be necessary to re-engage MURs.

After discussions with the General Manager and Deputy General Manager and a review of records, it was evident that fortnightly audits of accommodation are occurring, as well as follow ups with CCOs.

The General Manager acknowledged the pressures placed on staff and prisoners during a time of low staff levels and overcrowding, including on small non-custodial teams such as intelligence, programs and education, and advised they were using a 2014 staffing model, which was not ideal. A view was expressed that other correctional centres have better funding models that appear to be more responsive and aligned to current operational models.

Conclusion

Overcrowding has combined with Covid-19 and low staff levels to make the last few years challenging ones for staff and prisoners at MCC.

Recommendation 5 below lists of number of steps that QCS should take to support MCC to better manage overcrowding in the future.

Recommendation 5

To reduce the impacts of overcrowding at Maryborough Correctional Centre, QCS:

- (a) maintain sufficient staffing levels of custodial officers at MCC to provide core prisoner supervision, but also undertake other duties such as escort of prisoners and supervision of recreational activities
- (b) review the adequacy of current staffing arrangements for the various small, centralised units at MCC such as administration, intelligence, psychology, cultural liaison and programs, which have struggled to maintain service levels in the face of increases in prisoner numbers
- (c) assess whether the current staffing model for MCC remains appropriate, and if not, implement a new, more contemporary model
- (d) review the sufficiency of the provision of prisoner services such as programs, education, industry and other employment to meet the needs of a growing prisoner population, and seek to address identified deficiencies
- (e) assess the need for capital improvements to MCC buildings, storage, kitchen and plumbing to ensure they are sufficient to meet the needs of increased prisoner numbers
- (f) where necessary, assist local management to continue to closely monitor and respond to the health and safety of officers, particularly in relation to assaults on officers as prisoner numbers increase
- (g) ensure MCC management engage with staff to reduce, where possible, the use of modified unit routines (MURs).

QCS response

QCS is committed to maintaining staffing levels through retention and recruitment strategies. QCS is pleased to note that 14 Custodial Correctional Officers who recently graduated from the QCS Academy on 17 November 2023 will be posted to MCC.

Further, QCS is currently considering a review of its funding model associated with fluctuations in prisoner numbers. If progressed, and subject to funding, this may positively impact the staffing arrangements at MCC and other correctional centres. More broadly, QCS is reviewing its business and operating models following the continued growth in prisoner and offender numbers, and the pressures being placed on current delivery and funding allocations.

As noted in the response to recommendation 4, QCS will progress and consider the development of responses to address the impacts of overcrowding. This will include reviewing the sufficiency of prisoner services such as programs, education, industry and other employment opportunities, and the sufficiency of infrastructure facilities such as MCC buildings, storage, kitchen and plumbing, with an upgrade to the sewerage system currently in progress.

QCS has a zero tolerance for violence towards staff and all assaults in Queensland correctional centres. As such, QCS is supporting MCC local management to continue to closely monitor and respond to the health and safety of officers, particularly in relation to assaults on officers. QCS notes assaults are a key performance indicator measured, monitored and discussed as part of the QCS Commissioner's Operational Performance Reviews (OPRs).

QCS is committed to ensuring the safety and good order of correctional centres and notes MURs are enforced by local instruction only when there is a demonstrated need relating to staff and prisoner safety. The use of MURs is also discussed as part of the QCS Commissioner's OPRs and is closely monitored to ensure that when enforced, this does not unduly disadvantage any prisoner cohort by unnecessarily restricting access to amenities or services.

QCS will continue to investigate options to improve conditions at MCC and Queensland's correctional centres more broadly.

Ombudsman comment

I note QCS' response to my recommendation. The actions proposed by QCS address my concerns raised in the recommendation. As MCC was the focus of this investigation, I am particularly pleased to see 14 new CCOs being posted to MCC.

4. Shared cell accommodation agreements at Maryborough Correctional Centre

Shared cell accommodation agreements for all prisoners within secure units at Maryborough Correctional Centre, and whether proper processes are being followed

Introduction

The reference included concerns MCC's managers had directed custodial officers to complete shared cell accommodation agreements for prisoners, whether or not prisoners consented to sharing. The agreements are forms that officers fill out when they are deciding if two prisoners are suitable to share a room.

The concern in the reference raises issues that are central to managing the risk of harm to officers and prisoners in overcrowded prison environments.

When prisons are overcrowded, as they are in Queensland, difficult decisions must be made every day by officers about how to accommodate a greater number of prisoners than there are cells available. As overcrowding worsens, so too does the complexity of managing the juggle of people, cells and beds. Poorly made decisions about these matters can expose prisoners to safety risks and create broader tensions in the prison environment that also create risks for officers. Ensuring shared cell accommodation decisions are based on individualised risk assessments, and consider all relevant information to hand, is crucial to mitigating risks to prisoner safety and broader good management of prisons in an overcrowded prison system.

Consequently, in this chapter, we not only examine the issues raised by the reference, but also QCS' current policy settings and how they are implemented at MCC.

What is QCS' procedure for deciding who shares a cell?

Section 18 of the CS Act states that whenever practicable, each prisoner in a corrective services facility must be provided with his or her own room. However, as Queensland has more prisoners than it has cells in its prisons, the reality is some prisoners must share a cell.

QCS' COPD on Prisoner Accommodation Management sets out the process for its officers to follow when allocating accommodation to prisoners, including in shared cells. A prisoner is to be placed in suitable accommodation based on their identified risks and needs, with consideration given to:

- (a) any immediate risk (to self or others) or needs identified;
- (b) cultural rights and specifically cultural rights of Aboriginal and Torres Strait Islander peoples;
- (c) individual special needs;
- (d) any special planning considerations;

- (e) the prisoner's age;
- (f) supervision, monitoring and intervention requirements; and
- (g) the COPD Sentence Management: Classification and Placement.

It also sets out how shared cell accommodation decisions are to be made, recognising the risks to prisoner safety associated with shared cell accommodation decisions, stating:

A number of factors must be considered when accommodating prisoners in shared cells where no single cell accommodation is available. The chief superintendent of a corrective services facility must ensure these factors are considered to mitigate risks associated with environmental tension and prisoner assaults, and to guide and support staff decision-making ...

The COPD then provides three sets of guidance that would appear to collectively contain the factors that must be considered.

The first guidance states:

All reasonable efforts should be made to ensure that shared cell accommodation placements do not adversely impact on safety or security or reduce a prisoner's access to:

- (a) amenities, services, recreation and employment;
- (b) cell access and out of cell hours;
- (c) visits; and
- (d) progression opportunities.

The second requires shared cell accommodation placements to be individually assessed and a case note entered in IOMS that details:

- (a) how human rights were properly considered and balanced, including but not limited to cultural rights, specifically cultural rights of Aboriginal peoples and Torres Strait Islander peoples;
- (b) that prisoner's individual special needs have been considered;
- (c) that the prisoner has no concerns at the time of the placement;
- (d) where issues of risk have been identified, the Chief Superintendent shall ensure that appropriate notes and mitigation comments have been identified and recorded within the case note on each prisoner file and that they are sufficient to demonstrate consideration and mitigation of risk factors if the shared cell accommodation placement is to proceed; and
- (e) that the prisoner was advised to liaise with unit staff if any concerns arise in the future.

Two examples of appropriate case noting of the outcome of the assessment are provided, including:

I have considered the relevant factors including (insert specific factors), including human rights considerations in relation to prisoner X and at this time there are no known issues that would prevent shared cell accommodation with prisoner Y.

Then, under the heading 'Shared cell accommodation placement', a third guidance states:

Known considerations that may impact on whether prisoners are suitable to share a cell can include but are not limited to:

- (a) if the prisoner has been previously victimised within a corrective services facility;
- (b) if the prisoner has previously perpetrated violence against other prisoners;
- (c) the prisoner's history of self-harm and/or suicide attempts;
- (d) the prisoner's offence and correctional history;
- (e) the prisoner's relationships and known associations;
- (f) the prisoner's religious and cultural background;
- (g) intelligence information;
- (h) the prisoner's known physical and/or mental health, medical issues, disability and/or any cognitive impairment;
- (i) current warnings including escape risk, self-harm episode, enhanced security offender, identified risk, maximum security offender and sex offender flags;
- (j) individualised risk assessment for sexual offender placements;
- (k) if the prisoner is identified as a prisoner of concern;
- (l) if the prisoner is identified as Elevated Base Line Risk (EBLR);
- (m) if the prisoner is transgender or identifies as LGBTIQ+;
- (n) any other significant issues of concern; or
- (o) if the prisoner is on remand.

The COPD stipulates a number of other important matters in relation to shared cell accommodation decisions, including:

- human rights factors, emphasised in the introductory section of the COPD
- processing of requests for a review of shared cell accommodation placement decisions and prisoner requests for movement as soon as practicable
- when determining appropriate prisoners who could be selected to double up with at-risk prisoners, the General Manager to ensure that a suitability assessment is conducted and consent for the accommodation arrangement is provided by both prisoners
- recording of a decision to allocate a prisoner to shared cell accommodation placement in IOMS
- under no circumstances allowing a prisoner who is alleged to be a perpetrator in a sexual assault while in custody to be placed in shared cell accommodation
- continually monitoring and reviewing of shared cell accommodation. The review is to be reflected in required fortnightly case noting in IOMS, which is to indicate whether there are any concerns in relation to the prisoner's placement. A regular rotation process shall be considered where appropriate.

How are decisions about cell sharing made at MCC?

To assess how shared cell accommodation decisions are made at MCC, investigators spoke to officers and prisoners about shared cell accommodation decision practices, and also reviewed decision documentation.

How do officers decide which prisoners will share a cell?

A senior officer at MCC explained how decisions to accommodate two prisoners in a cell are made:

- An individual assessment of a prisoner's suitability for shared cell accommodation is completed on their reception into the centre and again each time they are moved into a new shared cell arrangement. This is done using a Prisoner Shared Cell Assessment Form.
- Prisoners are not automatically forced to share a cell. Instead, when it becomes necessary for cells in a unit to be shared, personal requests from prisoners of their preference for who they wish to share with are considered by officers.
- Matters taken into consideration by officers when placing prisoners in shared cell accommodation include their age, religious and cultural background, relationships and known associates, and any other relevant risk factors identified.
- The shared cell accommodation arrangement is case noted in IOMS to record each assessment, including relevant information such as human rights considerations.
- A fortnightly review of shared cell agreements is conducted by the Deputy General Manager to identify and remedy any emerging risks using a Shared Cell Accommodation Assessment Tool.
- If prisoners do not agree to be placed in shared cell accommodation together, then it will not be pursued at that time.
- Some prisoners are assessed as not suitable for sharing a cell by the General Manager and placed on a 'do not double up list'. The General Manager must implement controls to ensure this list is reviewed every three months. The COPD provides guidance on the reasons for prisoners to go onto and stay on this list.

Another officer discussed difficulties with obtaining prisoner consent for all shared cell agreements when prisoner numbers become high, advising that tough decisions sometimes need to be made by officers because cells must be shared as there are not enough for all prisoners to have their own, and prisoners are told to accept that. Investigators were told staff 'get no joy' from having to make these decisions; they do not want to have to force prisoners into this; and officers will help prisoners 'to be as comfortable as they can be with the situation'.

This supports the concerns raised in the reference. It also highlights the need for QCS to provide guidance to officers in the COPD about how to respond to situations where consent is not forthcoming from a prisoner.

As stated, the COPD requires individual assessments of shared cell accommodation placements be case noted in IOMS.

At MCC, officers are required to use a Prisoner Shared Cell Assessment form, which includes a checklist of relevant factors to be considered in deciding whether two prisoners are suitable to share a cell. The form is uploaded to the relevant prisoner's IOMS case file. An IOMS case note is completed.

It is not standard practice for all prisons to use a form like MCC does; others record shared cell accommodation agreements and risk assessment considerations only in IOMS case notes. This indicates the COPD is being implemented differently across QCS prisons.

MCC's checklist attempts to articulate in a single list the factors that need to be considered in deciding whether two prisoners are suitable to share a cell. However, the list is incomplete when compared to the considerations provided in the COPD, missing important considerations such as a prisoner's remand status and whether they identify as LGBTQIA+.

What did prisoners at MCC tell us?

Most prisoners do not want to share a cell with another prisoner.

The prisoners who investigators spoke to during the visit to MCC had differing views of the process for deciding who shares cells. Some said prisoners were usually allowed to sort out among themselves which prisoners share cells within a unit rather than those decisions being made by officers. Others said that while that sometimes happened, it was not always the case; sometimes they had no choice but to accept decisions by officers and say nothing if they did not agree with a proposed sharing arrangement. Oral evidence of prisoners at the centre was that this consent was not always genuine, with a view that they did not have a choice but to consent. They say their views about not wanting to share a cell are not listened to and prisoners are told to sign the Prisoner Shared Cell Assessment forms so the centre appears compliant on paper, but in reality, it is not.

This oral evidence from prisoners at MCC supports some of the concerns raised in the reference.

Review of a sample of prisoners' files

Investigators viewed the IOMS case files of eight randomly selected prisoners at MCC in both mainstream and protection accommodation units to check whether shared cell accommodation decisions were made and recorded by officers in accordance with the COPD.

There was a record in prisoners' case notes of an assessment of their suitability for shared cell accommodation made at the time of their reception into the centre, and other case notes recording their suitability to share a cell at the time they were placed into a shared cell arrangement with another prisoner. A Prisoner Shared Cell Assessment Form was found to have been completed and uploaded in all cases.

However, no case notes viewed complied fully with the requirements for documenting shared cell accommodation decisions that QCS has set out in its COPD:

- Human rights considerations: While some case notes included a general statement that prisoners' human rights had been considered, none included detail about which human rights were identified or how they were considered and balanced by the decision-maker. This is a requirement of both the COPD and the HR Act.
- Individual special needs: The case notes show that a psychologist assesses a prisoner's individual special needs on their reception into the centre.
- Prisoner concerns: Every case note viewed recorded that the prisoner had no concerns at the time of their placement into a shared cell. Some recorded a prisoner as having consented to the shared cell agreement, although the notes of that were brief, stating for example: 'Prisoner entered into a consensual shared cell agreement with another prisoner on this date.'
- Demonstrated consideration and mitigation of risk factors: There was no record either in prisoners' case notes or uploaded Prisoner Shared Cell Assessment Forms of how potential risks that were identified on the form's checklist were considered by the decision-maker, nor how the associated risks were mitigated prior to two prisoners being accommodated in a cell together.
- Prisoners advised to raise concerns: The case notes consistently recorded that the prisoner was advised to liaise with unit staff if any concerns arise in the future.

Conclusion

MCC was severely overcrowded for the time period the reference relates to (see Chapter 3).

The investigation found attempted compliance by centre officers with the requirements of the COPD, including using the checklist in the Prisoner Shared Cell Assessment Forms and frequent use of the example paragraphs it provides for recording decisions in IOMS. But it is difficult to identify from prisoners' IOMS case notes or completed Prisoner Shared Cell Assessment Forms uploaded to IOMS how their individual special needs or human rights were considered and any identified risks mitigated.

Properly implemented, MCC's checklist may help to ensure officers consider both the circumstances of the two prisoners proposed to share a cell as well as the risk of them sharing a cell together. However, checklists on their own can create a risk that decision-makers simply check off the list of factors, rather than individually assessing each case. To address this, the MCC form may benefit from the inclusion of some additional free text fields to encourage officers to explain their decision-making in more detail. Having this additional information available would also assist the conduct of the fortnightly decision audits.

The information discussed in this chapter appears to substantiate some of the concerns expressed in the reference about the provision of consent by prisoners to shared accommodation agreements when MCC was in this situation. However, there was no evidence that managers were directing officers to force prisoners into shared cell agreements.

The comments from prisoners that they were often allowed to sort out cell sharing agreements 'among themselves' also raises an important issue about the appropriate level of consultation by officers with prisoners about proposed shared cell placements. The COPD does not presently address this issue.

The COPD is in most respects a good policy instrument that has a commendable emphasis on the importance of human rights, individualised risk assessment and the need to document decisions. However, there are opportunities for improvement in its design, for example:

- The various clusters of factors and considerations at different points of the COPD may make it difficult for some officers to interpret and apply. At MCC, they appear to have responded to this issue by developing their own checklist.
- The inclusion in the COPD of example paragraphs to assist officers in documenting decisions in IOMS case notes may have the unintended effect of enabling decisions that are not the fully considered, individualised assessments sought by the COPD.
- The policy provides for prisoners to seek review of shared cell accommodation decisions but does not require the review to be undertaken by a more senior officer.
- The need for consent from prisoners is not as clear as it could be. The COPD refers to consent being required in relation to at-risk prisoners; however, for other prisoners, the COPD requirement is for the decision-maker to document that the 'prisoner has no concerns at the time of the placement'.

As prisoner numbers continue to increase across Queensland's prisons, it is important that QCS provides the best possible policy guidance to its officers about how to make decisions about shared cell accommodation agreements, and fully implements the guidance.

Accordingly, it is recommended that QCS undertake a review of the COPD and how it is being implemented by officers to ensure:

- it effectively guides staff decision-making to mitigate risks associated with shared cell placement decisions
- it is being fully implemented by officers through well documented, individualised assessments.

The review should include consideration of the issues raised in this chapter, and be completed by July 2024, with a report back to this Office on its outcomes.

Recommendation 6

QCS undertake a review of the Custodial Operations Practice Directive (COPD) on Prisoner Accommodation Management and how it is being implemented to ensure that it effectively guides decision-making to mitigate risks associated with shared cell placement decisions, and is being fully implemented by officers through individualised assessments that are well documented.

QCS response

QCS supports a review of the Custodial Operations Practice Directive (COPD) on Prisoner Accommodation Management: Cell Allocation to ensure it is fit for purpose, guides decision-making, and is being implemented effectively at MCC and correctional centres more broadly.

Ombudsman comment

I note QCS' response.

5. Accommodation of remand prisoners at Maryborough Correctional Centre

Whether sentenced and remand prisoners are accommodated together at correctional centres, specifically Maryborough Correctional Centre, and how this aligns with the obligations of the Human Rights Act

Introduction

Unlike sentenced prisoners, remand prisoners are accused persons who have not been found guilty of a criminal offence. On 30 June 2022, the Queensland Government Statistician's Office reported 33.6% of Queensland's prisoners were unsentenced (either on remand, awaiting sentence or awaiting deportation).

Arthur Gorrie Correctional Centre (AGCC), located in Brisbane, is Queensland's sole remand-only men's prison. As noted in Chapter 2 of this report, AGCC is severely overcrowded. All men's correctional centres outside south-east Queensland, including MCC, manage both sentenced and remand prisoners (see Appendix B).

The discussion in this chapter should not be considered as critical of the placement of remand prisoners in regional prisons rather than in a centralised remand centre like AGCC. There are considerable benefits to prisoners from being held as close as possible to their home communities. These benefits include maintaining and improving family relationships that may result in a better transition from prison to the community, and better health and welfare outcomes for the person in the prison system and their children and family (Grant, 'Prison environments and the needs of Australian aboriginal prisoners: A South Australian case study', *Australian Indigenous Law Review*). Connections to country are important factors when making decisions about the placement of Aboriginal and Torres Strait Islander prisoners. Queensland Health guidelines (2015) state that support for Aboriginal and Torres Strait Islander prisoners during sorry business and sad news, as well as general family and friend support networks, is not only beneficial for the individual but important for their community.

Human rights and best practice for accommodation of remand prisoners

It is recognised internationally that remand prisoners are a special category of prisoners who warrant specialised treatment and consideration.

Australia is a party to the International Covenant on Civil and Political Rights (ICCPR). Article 10(2)(a) of the ICCPR states:

Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

The requirement for segregation of remand prisoners is related to the fact that unconvicted prisoners are protected by the presumption of innocence in Article 14(2) of the ICCPR.

Similarly, the Nelson Mandela Rules provide:

Rule 112: Untried prisoners shall be kept separate from convicted prisoners.

The special status of remand prisoners is also recognised in the *Guiding Principles for Corrections in Australia*, developed by Australia's corrective services agencies. Section 3.3.3 states:

Unsentenced prisoners/detainees are accommodated in a manner which acknowledges their legal status and where practicable, provides for the separation between sentenced and unsentenced prisoners.

These provisions reflect the Queensland Productivity Commission's report *Inquiry into imprisonment and recidivism* that being remanded in custody imposes high personal and resource costs on defendants.

In Queensland, the international human rights protection for remand prisoners (accused persons) have been given effect through the HR Act. Section 30 provides:

- (1) All persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.
- (2) An accused person who is detained or a person detained without charge must be segregated from persons who have been convicted of offences, unless reasonably necessary.
- (3) An accused person who is detained or a person detained without charge must be treated in a way that is appropriate for a person who has not been convicted.

The inclusion of the words 'unless reasonably necessary' in s 30(2) of the HR Act acknowledges that, while Parliament's intent was for sentenced prisoners to be accommodated separately from remand prisoners whenever possible, there may be circumstances where it is not possible to do so.

The application of the HR Act to decisions about accommodation of remand prisoners is further qualified by s 5A of the CS Act:

- (1) This section applies to the chief executive's or a corrective services officer's consideration of—
 - (a) the [Human Rights Act 2019, section 30](#)(2) in relation to a prisoner admitted to a corrective services facility for detention on remand or a prisoner detained without charge; or
 - (b) the [Human Rights Act 2019, section 30](#) in relation to managing a prisoner in a corrective services facility where it is not practicable for the prisoner to be provided with the prisoner's own room under section 18.
- (2) To remove any doubt, it is declared that the chief executive or officer does not contravene the [Human Rights Act 2019, section 58](#)(1) only because the chief executive's or officer's consideration takes into account—
 - (a) the security and good management of corrective services facilities; or
 - (b) the safe custody and welfare of all prisoners.

QCS' approach to managing accommodation of remand prisoners

QCS' COPD on Prisoner Accommodation Management states that, whenever practicable, remand prisoners and sentenced prisoners should not be placed in shared accommodation together. Remand status is to be considered when deciding whether a prisoner is suitable to share a cell with another prisoner.

QCS acknowledges that, within the existing infrastructure, it is unable to provide separate accommodation for remand and sentenced prisoners on all occasions. The QCS Commissioner stated:

Whenever practicable, remand prisoners and sentenced prisoners are not placed in shared accommodation together. However, due to fluctuating remand and sentenced prisoner numbers it is not always practicable to accommodate these cohorts separately, particularly in regional centres.

MCC's approach to accommodating remand prisoners

There are no separate accommodation areas for remand prisoners at MCC. Remand and sentenced prisoners share the same units and can even share the same cells.

A number of officers at MCC acknowledged the challenges faced by remand prisoners, including adjustment issues for those remand prisoners new to the system, difficulties arising from uncertainty about their time at the centre, and the risk of remand prisoners becoming ingrained into prison life.

However, when it comes to making decisions about where to accommodate individual prisoners within the existing accommodation areas at MCC, evidence from MCC officers indicates little, if any regard, is had to a prisoner's remand status. Consistent with this, MCC's Prisoner Shared Cell Assessment Form does not include a prisoner's remand status in its checklist of considerations.

Conclusion

MCC does not appear to acknowledge the special status of remand prisoners when making accommodation decisions. While this may be inconsistent with human rights principles, the qualification in s 5A of the CS Act means the practice does not necessarily breach Queensland's HR Act.

It also appears that QCS' COPD on Prisoner Accommodation Management is not being fully applied in relation to accommodation decisions about remand prisoners.

As part of the recommended review of the QCS COPD on Prisoner Accommodation Management recommended in Chapter 4, QCS should also review the implementation of the COPD's requirements about the accommodation of remand prisoners in regional correctional centres to ensure that remand status is properly considered when making accommodation decisions.

Recommendation 7

As part of the review of the QCS Custodial Operations Practice Directive (COPD) on Prisoner Accommodation Management in Recommendation 6, QCS review the implementation of the COPD's requirements about the accommodation of remand prisoners in regional correctional centres to ensure that remand status is properly considered when making accommodation decisions.

QCS response

QCS supports a review of the consideration of remand prisoners in regional correctional centres as part of the review of the implementation of the COPD on Prisoner Accommodation Management: Cell Allocation. It is noted that QCS does not operate separate remand facilities in regional correctional centres, and capacity constraints challenge QCS' ability to separate remand and sentenced prisoners in these centres.

QCS understands that prisoners having contact with their families supports their wellbeing while in custody and assists them with their transition from custody back into the community. In making placement decisions, QCS endeavours to keep prisoners close to their family, which limits the opportunity to move a prisoner to a purpose-built remand centre in all cases.

Further limiting the flexibility of QCS to place prisoners is that remand prisoners are required to appear in person in Court at the discretion of the presiding Judicial Officer. QCS continues to work with the Courts and Department of Justice and Attorney-General to maximise use of videoconferencing.

Ombudsman comment

I note QCS' response and QCS' endeavours to keep prisoners close to their families.

I support QCS continuing to work with the Courts and Department of Justice and Attorney-General with a view to maximising the use of videoconferencing.

6. QCS rank structure and uniform dress standard changes

The reasonableness of QCS' adoption of the rank structure relating to uniform dress standard changes

The reference included concerns about the reasonableness of QCS' adoption of a rank structure, and specifically changes in uniform dress for CCOs.

Investigators were told:

- The changes to the uniform dress were commissioned with the approval of the QCS Uniform Governance Committee.
- QCS' workforce was consulted about the changes prior to their approval.
- The *Uniform and Dress Code* was approved by the Commissioner of QCS on 4 March 2020.
- The *Uniform and Dress Code* aligns QCS with other top-tier public safety agencies.
- Uniformed officers from all work streams share common rank insignia and differentiation in their uniforms promoting the intended ethos of 'One QCS'.
- The *Uniform and Dress Code* aligns to two of QCS' guiding principles – respect and empowerment – and recognises the commitment and achievements of officers.
- There is an internal QCS process for an employee who has concerns about the *Uniform and Dress Code* to follow.

In light of the comments from QCS about this issue, the period of time that has passed since the changes were approved and the consultation process completed by QCS within the workforce, it was decided further investigation was unjustified under s 23(1)(f) of the Ombudsman Act. QCS was notified by letter on 4 October 2022.

7. Funding occupational health and safety initiatives, uniforms and personal protective equipment

Whether custodial officers are expected to pay for occupational health and safety initiatives, their uniforms or any required personal protective equipment from their own wages

The reference included a concern that CCOs were expected to pay for occupational health and safety schemes, their uniforms and any required personal protective equipment (PPE) from their own wages. The concern was the Commissioner had erred in only agreeing to fund these safety and security issues through the Enterprise Bargaining Agreement (EBA), rather than having them immediately addressed and funded from another dedicated financial source when these occupational health and safety concerns were initially identified.

An EBA settlement offer was made by the Commissioner of QCS on 18 October 2021 to all Queensland Custodial Employees. It was not agreed to by the union or staff during consultation, and changes were made to the final certified agreement.

Nevertheless, the issue was raised with QCS, which confirmed (see Appendix B):

Where QCS requires an employee to wear PPE as part of their duties, QCS funds the provision of the approved PPE. Similarly, where QCS approves a specific health and safety initiative to be implemented to ensure the health and safety of employees, QCS funds this.

Some officers may elect to purchase their own PPE.

The QCS *Uniform and Dress Code* provides that officers receive a particular allocation of uniform items to match the number of ordinary rostered shifts, and that maternity uniforms are provided to pregnant officers in addition to non-maternity items.

Claims CCOs are expected to fund PPE, uniforms and health and safety initiatives are unsubstantiated.

Appendix

Appendix A: Legislation and standards considered in the investigation

Legislation/ standard	Relevant provisions	
<p><i>Corrective Services Act 2006</i></p>	<p>s 5A</p>	<p>Relationship with <i>Human Rights Act 2019</i></p> <p>(1) This section applies to the chief executive's or a corrective services officer's consideration of –</p> <ul style="list-style-type: none"> (a) the <i>Human Rights Act 2019</i>, section 30(2) in relation to a prisoner admitted to a corrective services facility for detention on remand or a prisoner detained without charge; or (b) the <i>Human Rights Act 2019</i>, section 30 in relation to managing a prisoner in a corrective services facility where it is not practicable for the prisoner to be provided with the prisoner's own room under section 18. <p>(2) To remove any doubt, it is declared that the chief executive or officer does not contravene the <i>Human Rights Act 2019</i>, section 58(1) only because the chief executive's or officer's consideration takes into account –</p> <ul style="list-style-type: none"> (a) the security and good management of corrective services facilities; or (b) the safe custody and welfare of all prisoners.
	<p>s 18(1)</p>	<p>Whenever practicable, each prisoner in a corrective services facility must be provided with his or her own room.</p>

Corrective Services Regulation 2017	s 3	<p>(1) An Aboriginal or Torres Strait Islander prisoner is to be accommodated in a corrective services facility as close as practicable to the prisoner's family unless the chief executive is satisfied the prisoner does not want to be accommodated near the prisoner's family.</p> <p>(2) In deciding what is practicable, the chief executive must consider all relevant factors, including, for example—</p> <p>(a) whether the prisoner's accommodation in the corrective services facility closest to the prisoner's family would pose an unacceptable risk to the safety of persons, including the prisoner, in the facility; and</p> <p>(b) the prisoner's security classification; and</p> <p>(c) any orders to which the prisoner is subject.</p>
	s 4(d)	<p>The chief executive must ensure a prisoner undergoing separate confinement -</p> <p>...</p> <p>is given the opportunity to exercise, in the fresh air, for at least 2 daylight hours a day.</p>
Queensland Corrective Services <i>Correctional Operations Practice Directives</i>	Prisoner Accommodation Management	Sets out the process for officers to follow when allocating accommodation to prisoners, including shared cells. A prisoner is to be placed in suitable accommodation based on their identified risks and needs with consideration given to factors outlined in the COPD.
<i>Human Rights Act 2019</i>	s 30	<p>Humane treatment when deprived of liberty</p> <p>(1) All persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.</p> <p>(2) An accused person who is detained without charge must be segregated from persons who have been convicted of offences, unless reasonably necessary.</p> <p>(3) An accused person who is detained or a person detained without charge must be treated in a way that is appropriate for a person who has not been convicted.</p>

<i>United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)</i>	Rule 11	<p>The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:</p> <p>(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate;</p> <p>(b) Untried prisoners shall be kept separate from convicted prisoners;</p> <p>(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;</p> <p>(d) Young prisoners shall be kept separate from adults.</p>
	Rule 12	<p>Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.</p>
	Rule 112	<p>Untried prisoners shall be kept separate from convicted prisoners.</p>
	Rule 113	<p>Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.</p>
<i>Standard Guideline for Corrections in Australia 2012</i>	1.11	<p>Where practicable, remand prisoners should not be put in contact with convicted prisoners against their will.</p>
	2.2	<p>Each prisoner should be provided with suitable living accommodation.</p>
	2.3	<p>Cells or rooms that are designed for single or multiple occupancy, should be consistent with the standards relating to size, light, ventilation etc as set out in the Standard Guidelines for Prison Facilities in Australia and New Zealand or as later modified.</p>
	2.4	<p>Accommodation should be provided to respond effectively to the actual needs and risk status of a prisoner. In some cases, single cell accommodation may be provided, in other cases multiple or dormitory accommodation may be more appropriate.</p>
	2.5	<p>Where prisoners are accommodated in multiple occupancy cells or rooms, the prisoners are to be carefully assessed and selected as being suitable to associate with one another in those conditions.</p>

<i>Guiding Principles for Corrections in Australia 2018</i>	3.3.3	Unsentenced prisoners/detainees are accommodated in a manner which acknowledges their legal status and where practicable, provides for the separation between sentenced and unsentenced prisoners.
<i>United Nations General Assembly Resolution 2200A, International Covenant on Civil and Political Rights</i>	Article 10	<p>(1) All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.</p> <p>(2) (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.</p>

Appendix B: P Stewart response to A Reilly, 2 June 2022



Ref: QCS-02122-2022
Your Ref: 2021/09891

- 2 JUN 2022



Office of the
Commissioner

**Queensland
Corrective Services**

Mr Anthony Reilly
Queensland Ombudsman
investigations@ombudsman.qld.gov.au

Dear Mr Reilly

Thank you for your letter of 3 May 2022 regarding [REDACTED] referred by the Legal Affairs and Safety Committee to your office under section 19 of the *Ombudsman Act 2001*.

I acknowledge the concerns [REDACTED] about Queensland's prisons and assure you that Queensland Corrective Services' (QCS) absolute priority is protecting the safety and health of every person in the correctional system, including QCS officers, health workers and prisoners.

QCS is also working hard to ensure the rights of prisoners are upheld to the greatest extent possible while they are in custody. QCS will not impede prisoners' human rights beyond that which is absolutely necessary to detect and prevent the spread of COVID-19 in prisons.

Our response to COVID-19 will continue to be guided by the Chief Health Officer's directions and the Australian and Queensland Governments' responses. QCS also works closely with Queensland Health to manage the impacts on the correctional system, maintain the safety of our officers and the wellbeing of the people in our centres.

Please find enclosed a detailed response to the matters raised [REDACTED] captured in Attachment A of your letter. I note the responses canvass the administrative actions of QCS, including administrative practices of correctional centres and a range of policy issues, excluding those policy decisions made by Cabinet.

If you require further information regarding this matter, please contact [REDACTED], Commander, State Corrections Operations Centre, QCS, on [REDACTED] or at [REDACTED]

Yours sincerely

Paul Stewart APM
Commissioner
Enc

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1. [REDACTED] in QCS's rank and pay structure in relation to custodial correctional officers (CCOs)

QCS is a large and diverse organisation, with over 6000 dedicated officers working every day across Custodial Operations, Community Corrections, Specialist Operations and our headquarters operations to help keep almost five million Queenslanders safe.

All corrective services officers employed under section 275 of the *Corrective Services Act 2006* are bound by the QCS Uniform and Dress Code (**Attachment 1**) with reforms to QCS' uniform, rank and insignia being key deliverables outlined in *Corrections 2030 (Attachment 2)*. The review of Manager, Supervisor and Officer rank insignia was also commissioned (**Attachment 3**) under the approval of the QCS Uniform Governance Committee and subsequently approved by the Commissioner on 4 March 2020.

The uniform and dress code was initiated to align QCS with other top-tier, public safety agencies and uniformed officers from all streams share the common rank insignia. This policy recognises the importance of all business officers in the safe and effective operation of the organisation, and as such promotes an ethos of 'One QCS'.

As a frontline organisation with direct supervision of more than 9000 prisoners in custody, QCS officers who work within correctional centres are required to wear the uniform daily. This provides a clear, visual indicator for prisoners and other stakeholders within centres to distinguish one another and ultimately contributes to the safe operation of the facility.

QCS has a strong record of recognising years of service, particularly within its uniformed workforce. QCS has denoted one stripe for every five years of service on an officer's epaulettes within the officer, supervisor and manager ranks, and through the issue of the former Long Service Medal, first issued at 15 years' service. While the rank insignia may recognise or reflect qualifications, it does not provide pay increases. Progression arrangements are determined by the applicable industrial instruments.

2. [REDACTED] qualification requirements for CCOs than other roles and [REDACTED]

A 'Custodial Appointment – Recognition of Skills, Knowledge and Abilities' policy has been developed under the proposed *Queensland Corrective Services - Correctional Employees' Certified Agreement 2021* (proposed Agreement) (**Attachment 4**) to provide the ability to appoint an officer to a pay point based on recognition of skills, knowledge and abilities. This policy will be formally introduced upon the certification of the proposed agreement.

Under section 2.15 *Recognition of Skills, Knowledge and Abilities on Appointment* of the policy it states, 'Notwithstanding anything contained elsewhere in the Award and this Agreement, an applicant who is appointed to a position may, at the discretion of QCS, be offered and appointed to any pay point within a level based on recognition of skills, knowledge and abilities.'

This policy will provide recognition of skills, knowledge and experience for new and interstate officers or for those officers who have a break in service to allow pay point recognition. Previously an employee would have commenced with QCS at a pay point of GS1-1, the new provision and policy will facilitate recognition of service to facilitate appointment to a higher pay point but will not change the rank insignia.

[REDACTED] QCS advises the following:

- *Example 1:* The Diploma in Correctional Administration is not a mandatory qualification. The enhanced progression arrangements provided for in the *Queensland Corrective Services – Correctional Employees' Certified Agreement 2016* (2016 Certified

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Agreement) (**Attachment 5**) removed the Diploma in Correctional Administration from the progression arrangements for base grade CCO staff. These enhanced progression arrangements have been maintained under the proposed Agreement which has been supported by a ballot of eligible employees. Under the Award provisions, if, on appointment, a CCO possesses a Diploma in Correctional Administration it would facilitate their appointment to a higher pay point.

- *Example 2:* A Correctional Supervisor with 12 months service at GS2-4 and a Diploma in Correctional Administration will be able to progress to GS3-1. This was introduced in the 2016 Certified Agreement. For CCOs, the Diploma in Correctional Administration was previously required to facilitate progression under the Award provisions to move beyond GS1-7. Under the enhanced progression arrangements this qualification was removed and the requirement for a Certificate IV in Correctional Practice was moved from GS1-4 to GS1-7 – facilitating progression to GS1-9. The progression arrangements for movement between classification levels GS1 and GS2 has remained the same under the Award. That is, individuals can progress from GS1-9 to GS2-1 with a relevant degree, or under the progression arrangements.
- *Example 3:* ██████████ CCOs with a Certificate IV in Training and Assessment receive no extra remuneration. They do however receive recognition under the rank insignia through the blue chevrons. Workplace trainers and assessors within the Officer ranks may apply for the blue-variant insignia, designed to identify and recognise officers who play a vital role in the ongoing training and development of their colleagues on a regular basis.

3. ██████████ formal offer from QCS for a new certified agreement (on 18 October 2021)

A replacement agreement to the 2016 Certified Agreement has been recently negotiated.

QCS and the Together Queensland, Industrial Union of Employees (Together) are in the process of making an application to the Queensland Industrial Relations Commission (QIRC) to have the *Queensland Corrective Services – Correctional Employees' Certified Agreement 2021* certified.

Key elements of the proposed Agreement include:

- A four year agreement operating from the date of certification, with a nominal expiry date of 31 August 2025. Adoption of the Award rates of pay as at 31 August 2021 as the Agreement rates, with wage increases of:
 - o 2.5% from 1 September 2021*
 - o 2.5% from 1 March 2022
 - o 2.5% from 1 September 2022
 - o 2.5% from 1 September 2023
 - o 2.5% from 1 September 2024.
- A one-off \$1250 payment will be made to all eligible employees (pro-rata for part-time and casual employees).
- An increase to the Aggregated Shift Allowance (ASA) of 3% will occur. The increase takes effect from the date of certification. The increase is, in part, to cover all public holidays at the date of certification of the proposed Agreement. The ASA also recognises that additional reasonable time may be involved at the time of shift handover to brief incoming employees, issue and return accoutrements and ensure the good order, security and safety of the correctional centre.

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- Provision of the ability to appoint an officer to a pay point based on recognition of skills, knowledge and abilities.

Funding of PPE and occupational health and safety initiatives

Where QCS requires an employee to wear PPE as part of their duties, QCS funds the provision of the approved PPE. Similarly, where QCS approves a specific health and safety initiative to be implemented to ensure the health and safety of employees, QCS funds this.

Some officers may elect to purchase their own PPE (providing it is not in contravention of QCS policy or other relevant provision in legislation, regulation or directive). For example, some officers elect to purchase their own face masks or seek vaccination via their own treating medical practitioner.

Matters related to conditions of employment of QCS officers

Conditions of employment are dealt with under the current 2016 Certified Agreement for the prevention and settlement of disputes including the procedures for disagreement over the interpretation or implementation of the 2016 Certified Agreement.

Provisions are also detailed under the *Correctional Employees Award – State 2015 (Attachment 6)* for prevention and settlement of disputes including disagreement over the interpretation or implementation of award matters. The *Correctional Employees Award – State 2015* also provides for employee grievance procedures, other than Award matters, providing the procedure for industrial matters within the definition of *the Industrial Relations Act 2016*, section 9.

Depending on the matter, an individual employee grievance can also be raised under the *Individual Employee Grievance Directive (Attachment 7)*. However, under the Directive only certain matters can be a grievance, there are also specified matters that cannot be raised as an individual employee grievance. Please see sections 5 and 6 of the Directive for these matters.

4. [REDACTED] uniforms, silver bars, medals and [REDACTED] for senior officers; [REDACTED] fair and equitable wage to rank recognition for CCOs, OHS equipment or a new prison.

Please see response to question 1.

5. [REDACTED] of QCS to properly plan for overcrowding of correctional centres, [REDACTED] over the past decade of forecasted growth of prisoner numbers, [REDACTED].

As at 3 May 2022, there were 9177 prisoners in Queensland. This is a decrease from the all-time high, recorded on 10 September 2021, of 10,267 prisoners.

The COVID-19 pandemic continues to impact the operation of correctional centres and community corrections facilities.

Following a decline in prisoner numbers experienced during the height of the COVID-19 pandemic, prisoner numbers in Queensland have shown a steady upward trend, with the increase driven by a significantly lower number of discharges from custody when compared to admissions to custody.

QCS acknowledges the high prisoner numbers and has taken steps to effectively manage these issues through the System Configuration Executive Group (SCEG).

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Forecasting and business continuity

The SCEG oversees the complex task of utilisation of QCS' custodial facilities and provides advice to the Commissioner on current and future custodial facility requirements. The objective of SCEG is to ensure the safe, secure and cost-effective utilisation of QCS' correctional centres and to ensure appropriate accommodation is available to all prisoners in the custody of QCS.

The SCEG's functions include monitoring and managing state-wide custodial accommodation of prisoners, state-wide prisoner numbers, trends, and projected growth. Using this information, the SCEG identifies and mitigates risks to the safe, secure and cost-effective utilisation of custodial facilities accommodation of prisoners.

To ensure business continuity and preparedness, QCS undertakes an annual prisoner forecasting process which provides a forecast of the number of prisoners for six years into the future. The forecast is updated each year to take into account the latest trends in admissions, duration of stay and prisoner counts.

Given the complex nature of the criminal justice process in forecasting, where unplanned events and policy changes can influence prisoner numbers, the forecasts are calculated using three growth scenarios (low, medium and high). QCS provides regular advice on forecasts, infrastructure and staffing requirements through the annual and mid-year budget process.

Impacts of COVID-19

Despite the unprecedented impacts of the COVID-19 pandemic and increasing prisoner numbers, QCS continues to keep communities safe through delivery of crucial frontline services. QCS officers provide an essential service across Queensland, and during this challenging time, their work is critical.

The daily operations of correctional centres and Community Corrections offices are being impacted due to officers isolating after testing positive to COVID-19 or being close contacts of a positive case. QCS is also experiencing a range of service disruptions due to the flow on impacts of COVID-19 on other agencies and businesses which can cause unrest in the prisoner population.

To maintain prisoner wellbeing during COVID-19, Queensland correctional centres continue to provide meaningful activities such as employment, opportunities for physical activities, access to TV, books, and other items such as magazines and playing cards through the sales to prisoners' system and the canteen system.

In 2020-21, prisoners in Queensland spent an average of 9 hours per day out of their cells, with many engaged in meaningful activities like work and education. Queensland's average time out of cell was the fourth highest when compared to other jurisdictions and below the national average of 9.4 hours.

QCS also fast-tracked initiatives to support prisoners to maintain access to their families, legal representatives and the courts during the pandemic. Virtual prisoner visits with family are operational through fixed screens and tablets for prisoners at all correctional centres apart from Palen Creek which has fixed virtual prisoner visit devices but no tablets due to network speed issues.

Rehabilitation activity across all service delivery areas continues to be impacted by the pandemic. These impacts include reduced access to prisoners due to isolation restrictions and restricted access to QCS facilities for external service providers.

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QCS is mobilising resources to provide support and assistance to frontline areas as required including to provide coverage for officers who have been directed to self-isolate. As a result, QCS is prioritising essential activities to ensure the safety and security of all workplaces. This may include reducing or pausing delivery of interventions and other services within centres.

QCS is also managing an increasing number of prisoners testing positive to COVID-19 or being isolated as close contacts. This has a range of impacts such as limiting QCS' ability to escort prisoners both within and outside of correctional centres, including for court appearances.

The QCS State Corrections Operations Centre continues to work diligently with Queensland Health to ensure the department's operations during the pandemic are supported by the clinical advice of the Chief Health Officer and Queensland Health.

6. Effects of [REDACTED] overcrowded prison population on the health and safety of CCOs

QCS recognises the importance of ensuring a safe working environment and providing holistic and responsive support to every one of our officers. QCS is promoting an integrated and coordinated approach to officer health, safety and wellbeing, and, wherever possible, more proactive and preventative measures and initiatives are being implemented.

Embedding a safety culture in QCS has remained a priority, and the department has continued to introduce new health and safety initiatives and services. QCS has partnered with Workplace Health and Safety Queensland to improve systems and practices for health, safety, injury management and wellbeing. Site visits and reviews of the QCS safety management system have also been conducted after being significantly impacted by restrictions associated with the pandemic.

QCS is also the first Queensland Government agency to participate in the Injury Management and Prevention program facilitated by the Office of Industrial Relations.

Officer Safety (Use of Force) Review

In 2018-19, QCS commenced the Officer Safety (Use of Force) Review into the use of force and the way the department can provide long-term and sustainable improvements to safety. The aim was to increase safety for officers and prisoners under QCS' care, by reducing the risk of violence in the correctional system.

The review looked at the safety of all QCS officers and included a range of recommendations to boost safety across the agency, including de-escalation and negotiation training and personal protection training, as well as looking at improvements in the built environment to boost safety. These recommendations include providing officers with more de-escalation and negotiation training and personal protection training, as well as looking at improvements in the built environment to strengthen safety.

A cross-divisional Officer Safety Committee (OSC), chaired by the Deputy Commissioner, Custodial Operations, with Together Queensland union representatives and relevant stakeholders was established in July 2020 to provide the governance and authorising environment for implementing the recommendations of the review.

Since completion of the review in October 2020 a number of recommendations have been implemented including:

- implementing a staffing structure to operationalise the recommendations
- streamlining tactical options and skills techniques based on the model employed by the New Zealand Department of Corrections

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- endorsing the issue of chemical agents for custodial correctional officers at high security men's correctional centres and the Escort and Security Branch
- developing training for the issue of chemical agents
- completing a review of facility CCTV coverage
- redefining the Corporate Oversight Panel as a Business Reference Group.

Operational Performance Reviews

QCS' operational performance reviews assist the department in meeting performance monitoring obligations and drive continuous improvement in service delivery. To identify the successful achievement of QCS objectives, the performance framework focuses on the five principles of *Corrections 2030* – safety, excellence, empowerment, respect and accountability.

Operational performance reviews are part of a six-monthly, evidence-based review process that focuses on best practice and opportunities for improvement. Reviews are conducted to hold each correctional facility accountable for organisational performance and delivery of outcomes. In 2020-21, each Queensland correctional centre and Community Corrections region participated in an operational performance review.

Workforce expansion

Over recent years, QCS has experienced a record increase in the number of prisoners entering correctional centres and those being supervised by Community Corrections. As a result, frontline staff have been expanded to maintain safety and security.

QCS has budgeted full-time equivalent (FTE) staff of 6,245 for 2020-21, representing an increase of 480 FTE from the 2019-20 adjusted budget of 5,765 FTE. QCS will continue to attract and increase relevant staffing numbers responsibly, based on evidence-based workforce forecasting and a needs-based approach.

Best practice

QCS is committed to implementing measures to increase safety within correctional centres, and to ensure QCS develops into the best trained and equipped correctional agency in Australasia.

Some of the key initiatives implemented to date include:

- the development of a new Tactical Options and Skills training model to replace the current Control and Restraint manual, with a stronger focus on communication skills and de-escalation and techniques adapted from the New Zealand Department of Corrections
- training in the deployment of oleoresin capsicum (OC) spray for all custodial correctional officers and Correctional Supervisors
- deployment of OC spray to custodial correctional officers and Correctional Supervisors in male high-security correctional centres, as well as the escort unit within the Escort and Security Branch.

QCS has also undertaken extensive consultation internally, Australia-wide and internationally to identify best practice initiatives including:

- Incident Controller Training trailed and incorporated into the Aspiring Correctional Supervisors Course
- Body worn camera use expanded
- Major breach hearings streamlined
- Tactical Options and Skills procedure focusing on communication and de-escalation

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- Local review panels and a corporate use of force reference group to review use of force incidents
- Evidenced-based best practice for managing prisoners with mental health issues
- QPS Communicating with Influence program incorporated into mandatory training
- Development of a guide for victims of occupational violence to support officers following an assault
- Safety and security equipment procurement process
- Safer engagement strategy to manage difficult prisoners.

7. Sentenced and remanded prisoners are accommodated together at Maryborough Correctional Centre, including sharing cells

QCS is committed to implementing the *Human Rights Act 2019* (HRA) and will continue to embed human rights in its day-to-day operations to keep Queenslanders safe. However, the nature of the correctional environment inherently restricts individual rights. QCS recognises that every member of society has certain basic human entitlements and is committed to ensuring that human rights are only limited where it is reasonable and demonstrably justified in accordance with the HRA.

QCS continues to balance the demands on the correctional system to ensure the security and good management of corrective services facilities and the safe custody and welfare of all prisoners. In doing so, QCS takes into account the human rights of individual prisoners and the necessities of managing corrective services facilities and large prisoner numbers.

With all correctional centres in Queensland managing sentenced and remanded prisoners (excluding Palen Creek Correctional Centre), segregation of these prisoner cohorts in an attempt to provide compatibility with section 30(2) of the HRA remains a challenge and this is recognised by section 5A of the *Corrective Services Act 2006*.

8. [REDACTED] complete shared cell accommodation agreements for all prisoners within secure [REDACTED]

QCS has implemented a shared cell strategy in most correctional centres to manage the growth in prisoner numbers. QCS ensures all prisoners are securely and humanely contained within the custodial environment. The decision regarding a prisoner's placement in a correctional centre takes into account various factors that include, but are not limited to, a prisoner's risk and needs, planning considerations, age, supervision requirements, cultural and intervention requirements.

With regard to consent, the Custodial Operations Practice Directive for Prisoner Accommodation Management states "*When determining appropriate prisoners who could be selected to double-up with at-risk prisoners, Chief Superintendent should ensure that a suitability assessment is conducted and consent for the accommodation arrangement is provided by both prisoners.*"

QCS acknowledges shared cells and additional prisoners accommodated in residential units is not ideal and it presents additional challenges for correctional staff and prisoners.

To help address capacity issues, QCS has completed the Capricornia Correctional Centre expansion in Central Queensland with all buildings operational. The expansion delivered an additional 348 cells and 398 beds. The Southern Queensland Correctional Precinct Stage 2 is also scheduled for completion in late 2023 and will deliver a state-of-the-art prison with over 1000 beds in the Lockyer Valley region. The high security facility will deliver a contemporary

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approach which will fundamentally change the way correctional facilities are designed and operated in Queensland.

Work has also continued on implementing recommendations from the Queensland Parole System Review that are centred around increasing rehabilitation opportunities for prisoners to address the underlying causes of offending behaviour and recidivism prior to release. This includes launching the first Case Management Unit at Townsville, expanding rehabilitation programs in correctional centres and community corrections and the Phase 2 rollout of the Opioid Substitution Treatment program.

Other measures implemented to address capacity constraints include re-entry services to aid the transition of prisoners back into the community to reduce their likelihood of reoffending and returning to custody.

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Appendix C: A Reilly letter to P Stewart, 4 October 2022



Your ref: QCS-02122-2022
Our ref: 2021/09891

4 October 2022

Queensland Ombudsman
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SENSITIVE

Mr Paul Stewart
Commissioner
Queensland Corrective Services
GPO Box 1054
BRISBANE QLD 4001

Sent by email: Commissioner@corrections.qld.gov.au

cc: [REDACTED]

Dear Mr Stewart

I refer to the Office of the Queensland Ombudsman's investigation of a [REDACTED] referral from the Legal Affairs and Safety Committee (LASC) about Queensland Corrective Services (QCS).

I refer also to communications between this Office and QCS about the investigation since [REDACTED]. Thank you for the information provided to this Office to date.

The purpose of this letter is to advise you of:

- the issues not being investigated by this Office
- the specific issues being investigated by this Office
- an upcoming visit to Maryborough Correctional Centre this Office has organised to assist with our investigation of the issues.

Issues outside the jurisdiction of this Office

[REDACTED] outlined concerns relating to [REDACTED] QCS' pay structure for CCOs, [REDACTED] qualification requirements for CCOs and the new certified agreement. I am satisfied these issues have been addressed by your responses to this Office.

You advised this Office the review of Manager, Supervisor and Officer rank insignia was commissioned under the approval of the QCS Uniform Governance Committee and subsequently approved by the Commissioner on 4 March 2020. This resulted in uniformed officers from all streams sharing the common rank insignia. Your response to this Office further advised while the rank insignia may recognise or reflect qualifications, it does not necessarily stipulate pay increases, as progression payments are determined by the applicable industrial instruments.

I understand the certified agreement signed in June 2022 provides enhanced progression arrangements and has removed the mandatory qualification, Diploma in Correctional Administration from the progression arrangements for base grade Custodial Correctional Officers (CCOs). These progression arrangements have been maintained under the current certified agreement, which was supported through Union consultation and a ballot of eligible employees.

When this Office raised the issue of CCOs not receiving extra remuneration for qualifications you explained that while CCOs do not receive extra remuneration for qualifications they undertake, they receive recognition under the rank insignia.

██████████ to this Office also raised concerns about the formal certified agreement offer originally put to staff in October 2021. I understand that since this time the certified agreement has been re-negotiated and further consultation with the union has occurred and an updated version of the certified agreement was presented to the Queensland Industrial Relations Commission (QIRC) to be certified. This occurred in June 2022.

The issues raised ██████████ about pay structure and qualifications are ones that are dealt with in the current certified agreement. Any matters, including the make-up of the certified agreement itself, that are capable of proceeding to the QIRC are issues that are outside the jurisdiction of this Office in accordance with s 16(2)(a) of the *Ombudsman Act 2001*.

Issues to be investigated by this Office

After consideration of ██████████ I have decided to investigate six issues:

1. The reasonableness of QCS' adoption of the rank structure relating to uniform dress standard changes.
2. Whether custodial officers are expected to fund departmental occupational health and safety initiatives; their own uniforms and/or any required personal protective equipment, from their own wages.
3. Whether QCS properly planned for overcrowding of correctional centres and the actions being taken to deal with the issue.
4. What are the effects of overcrowding within Maryborough Correctional Centre, with respect to the prison population and health and safety of the custodial officers and whether QCS is managing this reasonably?
5. Whether sentenced and remanded prisoners are accommodated together at correctional centres, specifically, Maryborough Correctional Centre and does this align with the obligations of the Human Rights Act?
6. The completion of shared cell accommodation agreements for all prisoners within secure units at Maryborough Correctional Centre and whether proper processes are being followed.

The investigation of the six issues is being conducted informally under s 24(1)(a) of the *Ombudsman Act*.

In relation to issue 1, I understand the changes to the uniform dress were commissioned under the approval of the QCS Uniform Governance Committee, which was approved by the former Commissioner, ██████████ on 4 March 2020. ██████████, Acting Director, Employee Relations advised these changes went through a consultation process with the workforce. Furthermore, the changes were initiated to align QCS with other top-tier public safety agencies and uniformed officers from all streams share the common rank insignia and differentiation in uniforms, which is designed to promote the ethos of 'One QCS'.

In light of the comments from QCS about this issue, the period of time that has passed since the changes were approved and the consultation process completed by QCS within the workforce, in my view, further investigation of this issue is unjustified under s 23(1)(f) of the *Ombudsman Act 2001*.

With respect to ██████████ information about CCO's ██████████ fund departmental occupational health and safety initiatives; their own uniforms and/or any

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required personal protective equipment from their own wages, I note the information you have provided to this Office about this issue. The information from QCS indicated:

Where QCS requires an employee to wear PPE as part of their duties, QCS funds the provision of the approved PPE. Similarly, where QCS approves a specific health and safety initiative to be implemented to ensure the health and safety of employees, QCS funds this.

Some officers may elect to purchase their own PPE.

Further, my interpretation of QCS' *Uniform Policy* is that officers receive a particular allocation of uniform items to match the number of ordinary rostered shifts. I note that maternity uniforms are also provided to pregnant officers and this is in addition to non-maternity items. From the information available to me at this point in time, I am unable to substantiate the claims [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Ombudsman visit to Maryborough Correctional Centre

Assistant Ombudsman, [REDACTED], Acting Principal Investigator, [REDACTED] and I will be visiting Maryborough Correctional Centre on Wednesday 26 and Thursday 27 October 2022. Thank you for the assistance provided by [REDACTED], Superintendent, Chief of Staff in organising this visit.

If you have any questions about this Office's investigation of these issues, please contact [REDACTED], A/Principal Investigator, on [REDACTED] or email to investigations@ombudsman.qld.gov.au.

Yours faithfully



Anthony Reilly
Queensland Ombudsman

Appendix D: P Stewart response to A Reilly, 5 December 2023



Ref: QCS-04765-2023
Your Ref: 2021/09891

- 5 DEC 2023

Mr Anthony Reilly
Queensland Ombudsman
investigations@ombudsman.qld.gov.au



Office of the
Commissioner

Queensland
Corrective Services

Dear Mr Reilly

Thank you for your email of 31 October 2023 inviting comment on your proposed report on the investigation of a matter referred from the Legal Affairs and Safety Committee (LASC) about Queensland Corrective Services (QCS).

I would like to take this opportunity to reaffirm that QCS absolute priority is protecting the safety and health of every person in the correctional system, including QCS officers, health workers and prisoners. QCS recognises the issues outlined in your proposed report, and appreciates the opportunity afforded by the investigation to help QCS improve its services.

QCS acknowledges your proposed report is primarily focused on overcrowding in Queensland's correctional centres, with a specific focus on Maryborough Correctional Centre (MCC). Capacity challenges continue to be QCS' most pressing issue, and responding to capacity demands and mitigating risks and issues presented by high prisoner numbers remains a critical priority for QCS. This commitment is reflected in the QCS Strategic Plan 2023-2027, which identifies capacity issues in facilities as a strategic risk requiring ongoing monitoring and proactive mitigation, with key strategies including increasing prison capacity and considering options to meet future capacity needs.

QCS has implemented a number of short, medium and long-term strategies to address current capacity constraints, including:

- the delivery of purpose-built bunk beds retrofitted to cells across Queensland to get prisoners off mattresses on the floor, meaning that by the end of 2024, approximately 6000 additional beds including more than 3400 bunk beds will have been delivered since 2015
- an additional 736 beds across 492 cells through the re-commissioning of Borallon Training and Correctional Centre
- the conversion of the Southern Queensland Correctional Centre to a women's facility in 2019, providing immediate relief to the women's correctional system
- an expanded Capricornia Correctional Centre, delivering an additional 398 beds across 348 cells.

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(2)

Other non-infrastructure related responses to reduce demand on the system have included:

- implementation of recommendations from the Queensland Parole System Review – centred around increasing rehabilitation opportunities for prisoners to address the underlying causes of offending behaviour and recidivism prior to release;
- increased funding to support Parole Board Queensland operations and continue efficient consideration of parole matters
- expansion of re-entry services to aid the transition of prisoners back into the community to reduce their likelihood of reoffending and returning to custody
- ongoing collaboration with the Justice Reform Office in the Department of Justice and Attorney-General and other Queensland Government stakeholders, which includes consideration of initiatives to reduce demand on Queensland's prisons.

QCS current capital program includes the following key initiatives that aim to address capacity issues:

- \$861 million (\$341 million in 2023-24) to build the new 1536-bed health and rehabilitation designed Lockyer Valley Correctional Centre (LVCC)
- \$9 million (\$1 million to complete round 3 in 2023-24 plus \$8 million in released central funds for Round 4) to install additional bunk beds in high security correctional centres across Queensland to manage the increasing prison population
- \$3 million (\$1 million in 2023-24) to complete the refurbishment of the Princess Alexandra Hospital Secure Unit
- \$20 million in 2023-24 for pre-commencement activities including design works, site investigations and other preliminary works for the future expansion of the Townsville Correctional Precinct
- \$10 million in 2023-24 for pre-commencement activities including design works, site investigations and other preliminary works for the future establishment of a new Wacol Precinct Enhanced Primary Health Care facility located at the Brisbane Correctional Centre.

QCS is also considering other ways to address increasing demand on the correctional system and capacity constraints including:

- additional capacity solutions over and above LVCC and the Townsville Correctional Precinct
- potential lower cost capacity solutions, for example low/medium security variants
- alternate building strategies using modern methods of construction to reduce the lead time for new accommodation.

QCS acknowledges that more needs to be done to address demand on QCS custodial capacity, while also managing and mitigating issues and risks presented by high prisoner numbers. As such, QCS supports the recommendations of your proposed report and provides the following general comments.

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Proposed recommendation 1: *QCS continue to include information about facility utilisation on the basis of built cell capacity in its departmental annual report.*

In 2022-23, QCS introduced a new service standard regarding facility utilisation, namely built bed capacity. As such, QCS now has two facility utilisation service standards – built cell capacity, which is a measure of the capacity of correctional centres as designed, and built bed capacity, which includes permanently installed bunk beds and is a measure of QCS' management of the continuing growth in prisoner numbers. QCS will continue to report on these service standards in its service delivery statements and annual reports.

Proposed recommendation 2: *QCS publish on its website its annual forecasts of prisoner numbers for the five years following the year in which the forecast is made.*

In the beginning of each calendar year, QCS produces estimates of the size of future prisoner populations for QCS operational and planning needs. QCS agrees that increasing the information that is publicly available on current and expected demand in the correctional system will assist the public and stakeholders in understanding and assessing the potential strategies that could be utilised to respond. Noting that the Report includes forecasting data prepared in 2022, QCS will publish updated data in 2024 following its annual forecast review.

Proposed recommendation 3: *In recognition of the importance of humane containment, QCS develop and provide advice to government on options to expand the number of cells available to accommodate prisoners on an ongoing basis and reduce the harmful impacts of overcrowding over time. Priorities for QCS advice on options should include addressing chronic overcrowding at Arthur Gorrie Correctional Centre and increasing built cell capacity for female prisoners.*

QCS will continue to develop and provide advice to government on responses to address current and future capacity needs.

Notably, QCS has identified the Arthur Gorrie Correctional Centre – General Medical Facility Expansion as infrastructure required to support growth, as part of the draft South East Queensland Infrastructure Supplement.

QCS is also reviewing the system configuration for South Queensland with a focus on remand placement options following the commissioning of LVCC.

For female prisoners, QCS is implementing the funded recommendations from the Women's Safety and Justice Taskforce and is increasing low custody capacity to provide more options for women in custody to be housed in the least restrictive accommodation available.

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(4)

Proposed recommendation 4: *QCS should prioritise the development of responses to the range of impacts of overcrowding identified in this report.*

QCS, as a priority, will continue to progress and further consider the development of responses to address the impacts of high prisoner numbers, including considerations related to workplace health and safety, reintegration and rehabilitation programs, availability of services, prisoner access to services, staffing models, infrastructure capacity and condition limitations, shared cell arrangements, out of cell time, the use of modified unit routines and lockdowns, and the legal status of remand prisoners when making accommodation decisions in regional prisons.

The ability for each potential initiative to reduce the impact of high prisoner numbers will be considered, such as its impact on the health and safety of Custodial Correctional Officers, administrative burden of making accommodation decisions for prisoners (particularly shared cells), corrupt conduct, influences for further criminalisation, prisoner access to healthcare, strain on infrastructure, prisoner employment, out of cell time, prisoner self-harm and suicide, access to parole, prisoner on prisoner assaults, and prisoner access to psychological assessments and programs.

Proposed recommendation 5: *To reduce the impacts of overcrowding at Maryborough Correctional Centre, QCS:*

- (a) maintain sufficient staffing levels of custodial officers at MCC to provide core prisoner supervision, but also undertake other duties such as escort of prisoners and supervision of recreational activities
- (b) review the adequacy of current staffing arrangements for the various small, centralised units at MCC such as administration, intelligence, psychology, cultural liaison and programs, which have struggled to maintain service levels in the face of increases in prisoner numbers
- (c) assess whether the current staffing model for MCC remains appropriate, and if not, implement a new, more contemporary model
- (d) review the sufficiency of the provision of prisoner services such as programs, education, industry and other employment to meet the needs of a growing prisoner population, and seek to address identified deficiencies
- (e) assess the need for capital improvements to MCC buildings, storage, kitchen and plumbing to ensure they are sufficient to meet the needs of increased prisoner numbers
- (f) where necessary, assist local management to continue to closely monitor and respond to the health and safety of officers, particularly in relation to assaults on officers as prisoner numbers increase
- (g) ensure MCC management engage with staff to reduce, where possible, the use of modified unit routines (MURs).

QCS is committed to maintaining staffing levels through retention and recruitment strategies.

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(5)

QCS is pleased to note that 14 Custodial Correctional Officers who recently graduated from the QCS Academy on 17 November 2023 will be posted to MCC.

Further, QCS is currently considering a review of its funding model associated with fluctuations in prisoner numbers. If progressed, and subject to funding, this may positively impact the staffing arrangements at MCC and other correctional centres. More broadly, QCS is reviewing its business and operating models following the continued growth in prisoner and offender numbers, and the pressures being placed on current delivery and funding allocations.

As noted in the response to recommendation 4, QCS will progress and consider the development of responses to address the impacts of overcrowding. This will include reviewing the sufficiency of prisoner services such as programs, education, industry and other employment opportunities, and the sufficiency of infrastructure facilities such as MCC buildings, storage, kitchen and plumbing, with an upgrade to the sewerage system currently in progress.

QCS has a zero tolerance for violence towards staff and all assaults in Queensland correctional centres. As such, QCS is supporting MCC local management to continue to closely monitor and respond to the health and safety of officers, particularly in relation to assaults on officers. QCS notes assaults are a key performance indicator measured, monitored, and discussed as part of the QCS Commissioner's Operational Performance Reviews (OPRs).

QCS is committed to ensuring the safety and good order of correctional centres and notes modified unit routines (MURs) are enforced by local instruction only when there is a demonstrated need relating to staff and prisoner safety. The use of MURs is also discussed as part of the QCS Commissioner's OPRs and is closely monitored to ensure that when enforced, this does not unduly disadvantage any prisoner cohort by unnecessarily restricting access to amenities or services.

QCS will continue to investigate options to improve conditions at MCC and Queensland's correctional centres more broadly.

Proposed recommendation 6: *QCS undertake a review of the Custodial Operations Practice Directive (COPD) on Prisoner Accommodation Management and how it is being implemented to ensure that it effectively guides decision-making to mitigate risks associated with shared cell placement decisions, and is being fully implemented by officers through individualised assessments that are well documented.*

QCS supports a review of the Custodial Operations Practice Directive (COPD) on Prisoner Accommodation Management: Cell Allocation, to ensure it is fit for purpose, guides decision-making, and is being implemented effectively at MCC and correctional centres more broadly.

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Proposed recommendation 7: *As part of the recommended review of the QCS COPD on Prisoner Accommodation Management recommended in Recommendation 6, QCS also review the implementation of the COPD's requirements about the accommodation of remand prisoners in regional correctional centres to ensure that remand status is properly considered when making accommodation decisions.*

QCS supports a review of the consideration of remand prisoners in regional correctional centres as part of the review of the implementation of the COPD on Prisoner Accommodation Management: Cell Allocation. It is noted that QCS does not operate separate remand facilities in regional correctional centres, and capacity constraints challenge QCS ability to separate remand and sentenced prisoners in these centres.

QCS understands that prisoners having contact with their families supports their wellbeing whilst in custody and assists them with their transition from custody back into the community. In making placement decisions, QCS endeavours to keep prisoners close to their family which limits the opportunity to move a prisoner to a purpose-built remand centre in all cases.

Further limiting the flexibility of QCS to place prisoners is that remand prisoners are required to appear in person in Court at the discretion of the presiding Judicial Officer. QCS continues to work with the Courts and Department of Justice and Attorney General to maximise use of videoconferencing.

Thank you for providing the opportunity to comment on your proposed report. If you require further information regarding this matter, please contact Superintendent [REDACTED], Chief of Staff, Office of the Commissioner on telephone [REDACTED] or email at [REDACTED]

Yours sincerely



Paul Stewart APM
Commissioner

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Glossary

Term	Meaning
Average daily prisoner population	A count of the number of prisoners in QCS' physical and legal custody at the end of each day, averaged over the calendar month
Built bed capacity	The number of built prisoner accommodation bed places in single and shared cells, and dormitories
Built cell capacity	The total number of built prisoner accommodation cells
Bunk bed program	The state-wide installation of bunk beds approved in 2017-18, slated to provide an additional 2,000 bunk beds to the system
COPD	QCS' Custodial Operations Practice Directive
CS Act	<i>Corrective Services Act 2006</i>
Corrective Services Regulation	Corrective Services Regulation 2017
CCOs	Custodial Correctional Officers
Double up	The practice of placing two prisoners in a cell that was originally designed for one prisoner
IDS Act	<i>Inspector of Detention Services Act 2022</i> , under which the Inspector of Detention Services is accountable for conducting a program of inspections of prisons and subsequent reports to Parliament
IOMS	QCS' Integrated Offender Management System database
Lockdown	Prisoners are secured in their cells and movement within the facilities is restricted
MCC	Maryborough Correctional Centre
Modified unit routines (MURs)	System where only half the prisoners in an accommodation unit are allowed out of cells at a time (e.g. one group in the morning, the other in the afternoon), leading to significantly reduced time out of cells for prisoners
Nelson Mandela Rules	<i>United Nations Standard Minimum Rules for the Treatment of Prisoners</i>
this Office	Office of the Queensland Ombudsman
Ombudsman Act	<i>Ombudsman Act 2001</i>
Out of cell time	Reported time prisoners have out of their cells or rooms (average hours per day)
Overcrowding	Occurs where the number of prisoners held in a prison exceeds the prison's capacity - in this report, its design capacity
Prisoners on remand	Persons charged with a criminal offence who have been ordered by a court to be detained in custody while awaiting trial or sentencing

Term	Meaning
QCS	Queensland Corrective Services
Report on Government Services (RoGS)	The Australian Productivity Commission's <i>Report on Government Services</i> (various dates)
Residential unit	Residential style accommodation within a correctional centre
Safety order	Has the same meaning as in s 53(1) of the CS Act
System Configuration Executive Group (SCEG)	A QCS group whose functions include monitoring and managing state-wide custodial accommodation of prisoners, prisoner numbers, trends and projected growth
Secure unit	One of two types of accommodation areas at a correctional centre, the other being residential units
Single cell	A cell or a room designed for occupancy by a single person
Single cell capacity	The total number of cells in a correctional centre that were designed to be used for prisoner accommodation, excluding all safety unit and detention unit cells



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