

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
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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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