



June 13, 2003

## RESPONSE TO REVIEW OF INSPECTOR GENERAL OF PRISONS

Justice Action calls for the retention of the office of Inspector General and a restructure of the legislation making it truly independent. It must have the power to report directly to Parliament and not need to defer to either the Department of Corrective Services or the Ombudsman in pursuit of fairness.

The Review released on Tuesday, 10 June 2003 is biased, inaccurate, and misleading.

The terms of reference for the Review were, "...to evaluate the Inspector-General's contribution to the operation of the State's correctional system." Instead of doing this, the Review is dedicated entirely to an evaluation of instances perceived by the Department as "adversarial". Despite acknowledging that, "...monitoring organisations... by their nature, take a problem oriented approach", not a single mention was made of the many contributions made by the Inspector General.

As mentioned in our submission to the Review Panel, the people responsible for the Review are Mr. Vern Dalton & Mr. John Avery, former Commissioners in the prison and police bureaucracies, now advising whether there should be a watchdog on the prison bureaucracy. Mr. Dalton, a former colleague of Commissioner Ron Woodham, was also recently appointed to review the Parole Board after the tragic suicide of a young aboriginal man 3 weeks after he was due to be released.

The Review was part of the legislation establishing the office, and was to be completed "as soon as possible after 12 June 2002." The Review states that it was not until 11 February 2003 that then Minister for Corrective Services Richard Amery requested that the Review be undertaken. Conducted at the last possible opportunity, the Review suffers from inaccuracies and unprofessional presentation.

### Obvious and provable inaccuracies include:

- "...we spoke with... representatives of the Inmate Development Committees." Only **one** IDC is listed in the index of interviews. (p. 7)
- "Opinions of the Official Visitors who we interviewed varied about the value of their tenuous connection to the Inspector-General. While two found it to be positive most found it irrelevant." (p. 16) Only **four** Official Visitors are listed as being interviewed. At the Annual Meeting of Official Visitors on 4

1

justice  
ACTION

65 Bellevue Street Glebe NSW 2037

PO Box 386 Broadway, NSW 2007, AUSTRALIA  
JA@justiceaction.org.au

Ph: 612 9660 9111 Fax: 612 9660 9100  
www.justiceaction.org.au

June 2003, they passed a motion supporting the retention of the office of Inspector General.

**Statements and assertions made with no evidence or reference:**

- “Some submissions assert that existing agencies such as the Ombudsman cannot perform their complaints function adequately. This is simply not correct.” (p. 8)
- “Generally, the Ombudsman has the confidence of prisoners and external agencies.” (p.9)
- “If the seconded police officers act inappropriately, improperly or corruptly in the performance of their duties a **referral must be made** (by whom? -JA) to the Police Integrity Commission.” (p.9)
- “...it appears that the Government intended...” (p.10) **Certainly the framework legislation for their task should not be in doubt as to intent.**
- “The Inspector-General is alleged to have been ‘captured by malcontented officers’” (p. 12)
- “For some reason he is said to have obsessively pursued issues based on hearsay.” (p. 12)
- “Some assert that he frequently failed to test the veracity of information.” (p. 12)
- “A number of Governors claim...” (p. 12)
- “It is generally accepted that change imposed externally on organizations does not have a high success rate.” (p. 15)
- “...it is expected that tensions between custodial staff and inmates will further reduce.” (p. 15)
- “Inmates have regard for the Ombudsman in dealing with complaints.” (p. 20)
- “...the Ombudsman and the (ICAC) have far stronger legislative powers and advanced investigation skills and processes.” (p. 20)

**Conflicts of interest:**

Most of the recommendations refer the watchdog role back to within the Department, and also directly under the control of the Commissioner, Mr. Ron Woodham. Mr. Woodham is, himself, the subject of an ICAC Inquiry which is a result of a report made by Mr. Lindsay Le Compte, Inspector General 1999-2003.

- “The Commissioner for Corrective Services has statutory powers and responsibilities. The vigorous pursuit of these powers allows for issues to be dealt with by Departmental disciplinary processes for misconduct, criminal prosecution for illegal conduct or by administrative action and sanctions or mediation for minor matters.” (p. 10)
- “The Commissioner established the Directorate of Probity and Performance Management. It is that Directorate that is now interacting constructively with the Ombudsman, the ICAC and other agencies.” (p. 14) **This is also the same office from which the Review was conducted.**
- “We consider that the administration and coordination of Official Visitors should become the responsibility of the Strategic Operations Review Branch (Directorate of Probity and Performance Management). That Branch can review those reports after they have been seen by the Commissioner...” (p. 16)
- “Another Departmental initiative has been... the Corrective Services Support Line...” (p. 17) **Presumably this means a direct line to the Department itself.**
- “...the Commissioner of Corrective Services is prepared to introduce performance agreements for all positions of Superintendent and Deputy Superintendent...” (p. 17)
- “The Commissioner is prepared to appoint an external mediator to resolve concerns of executive staff regarding disciplinary action...” (p. 17)
- “The Commissioner is prepared to... inform correctional officers that possession of tertiary qualifications will advantage them in aspiring to commissioned officer rank.” (p. 18)
- “In effect... the Inspector General’s role in promoting integrity and professionalism is being overtaken (by the Academy)” (p. 18)

**The remaining responsibilities are recommended to be referred to the Ombudsman:**

*“Since 1974 the NSW Ombudsman has dealt with complaints by prisoners. That Office has been very active regarding complaints and other issues concerning the administration and the delivery of correctional services.”* (p. 9),

*“The Ombudsman is totally independent.”* (p. 20)

Justice Action's experience has been that prisoners don't trust the Ombudsman. The Ombudsman's office deals with all complaints about any NSW Government office, and is not specifically skilled in the issues that arise in prison administration.

The office does not address specific complaints. In a recent letter from Ms. Jennifer Agius, Senior Investigation Officer, she states, "...the Ombudsman does not perform a role of reviewing individual cases where discretionary decisions are made by public authorities, such as Corrective Services." (11 March 2003)

In another case, we enquired about several prisoners at Junee Correctional Centre – the only private prison – we were informed that employees of Junee are not public servants and therefore do not have public accountability. We were told to write to the Ombudsman's office for advice on what levels of accountability we can expect from the private prison. Having done so on 26 February 2003, we have not yet received a response or acknowledgement of receipt of the letter.

The office of the Ombudsman withdrew from the Prisoner Legal Service Community Committee due to lack of interest and preparedness to oversight their work.