



The Hon John Hatzistergos
Minister for Justice
Parliament House
VIA FACSIMILE: 9230 2139

Dear Mr. Hatzistergos,

RE: High Risk Management Unit (HRMU) Inspection

This letter is to request permission for an independent inspection team to examine the 75-cell HRMU at Goulburn Jail. The proposed inspection team consists of specialist doctors, jurists, members of the Corrections Health Service Consumer Council and prisoners' representatives. All are professionals and highly respected in the community. This request follows multiple reports of; arbitrary assignment to the unit, self-harm and mutilation, desperation, hunger strikes, sensory deprivation, psychological damage to prisoners held there, and conditions which fall below levels required under the UN Standard Minimum Rules for the Treatment of Prisoners.

Justice Action, as part of the Criminal Justice Coalition, was offered the opportunity to consult with Corrective Services in the design of the HRMU by the present Commissioner, Mr. Ron Woodham. Unfortunately, this invitation was not facilitated and as a result, we have no accurate, independent information on conditions inside the unit to allay community concerns.

The Alternatives

Had JA been given the opportunity to consult, we would have proposed a design based on the Barlinnie Special Unit in Scotland. Barlinnie was developed as a social and humane response to the escalating cycle of violent confrontation between prisoners and guards which was spinning out of control at Inverness prison. Barlinnie was described by the NSW Government as a:

Special long term unit for violent inmates offers high levels of privileges (e.g. unlimited visiting facilities), greater prisoner autonomy, input into running unit, contact with non-criminal outsiders, education and art programs, community meetings, and supportive staff-inmate relationship. Immediate expulsion from the unit for any physical violence. (www.lawlink.nsw.gov.au, *Programs and Approaches to Reduce Prison Violence*)

In his analysis of Barlinnie as an alternative to the Inverness 'cages', which operated under the same philosophy as the HRMU, Alistair Thomson wrote,

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(Barlinnie) has the wholehearted support of the Scottish Prison Officers Association. It has arguably contributed to a reduction of tension in other prisons by isolating some of the system's worst troublemakers; it has allowed many of these difficult prisoners to cope with their long sentences in a positive manner and in several instances has facilitated an earlier return to the outside community than otherwise might have been expected. In a word, it has provided an alternative means of managing difficult prisoners. (*Current International Trends in Corrections*, 1988, p. 125)

The Special Care Unit (SCU) at Long Bay Correctional Centre was inspired by Barlinnie. The SCU was opened in 1981 to replace the Observation Unit, which was strongly criticised by the Nagle Report. The SCU was closed in 1997 because of lack of record-keeping which could give a measure of effectiveness. The SCU was replaced by the Four-Stage Violence Prevention Program, which is housed within the Metropolitan Special Programs Centre (MSPC). The former Inspector General for NSW, Lindsay LeCompte commented, "At the Metropolitan Special Programs Centre (MSPC), for example, the Department has achieved considerable success with the programs that are being delivered there, due to the ability of that centre to concentrate its efforts and resources on focused strategies." (*Report of an Inspection of Mulawa Correctional Centre 2002*).

The key distinction between the Barlinnie model and the HRMU would appear to be in the degree of management directed by the prisoners themselves as opposed to direction by the Department. The operating philosophy of the SCU was, "Freedom with responsibility: responsibility to self and community." (Dr. Schwartz, Special Care Unit, Philosophy, Procedures and Achievements.) Allowing prisoners to direct their own activity and choose their own community solves many problems for prisoners, officers, and the community they both return to when they leave the prison. When prisoners are able to choose their associates, it immediately reduces the incidents of rape, fights and the resentment of staff that can lead to riots. The officers chosen to staff the Barlinnie Special Unit were also volunteers. Ken Murray, one of the officers involved in the Barlinnie project said,

...the methods that we introduced into the Unit ...are based on a very simple attitude, that being that we should speak to the prisoners and suggest to them that we should, together find ways and means best suited for the method where we could live tolerably with each other... There's never been one single incident of a prison officer being attacked in the Special Unit by a prisoner. (Interviewed by Caroline Jones, ABC Radio, 5 October 1979)

In contrast, the HRMU followed in the tradition of the spectacular failures of Grafton and Katingal. Both were closed due to the damage they caused to the community, prisoners and the Department.

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Grafton

The Nagle Royal Commission said that Grafton was opened in 1942, "...for the treatment of recalcitrant and intractable prisoners." In reality, this was officially-endorsed "brutality and sadism" by prison officers.

It was urged... that a regime of brutality such as existed at Grafton provided the only effective method of containing and controlling intractable prisoners. According to this argument, it was necessary to inculcate fear into the prisoners from the moment of arrival, and to maintain them in a high state of fear through their stay. Otherwise they would have become uncontrollable... It is a blight on the penal administration of this State that (these conditions) did occur once and were allowed to continue for nearly thirty-three years. (Nagle Report, p.119)

The Grafton unit was closed in 1976 as it had become "... an acute embarrassment to the Department's senior officers" (*ibid*, p.118) and Katingal had been opened in 1975.

Katingal

Katingal was designed for "the containment of dangerous violent criminals..." which "arose directly out of (McGeechan's) general dissatisfaction with Grafton." (*ibid*, p.123) Katingal very quickly began to suffer from the same problems as Grafton, for the same reasons; the classification of prisoners as "the worst 1 per cent" allowed the abuse of authority that led to unacceptable conditions.

Dr. Houston considered that long-term incarceration of prisoners at Katingal would be detrimental to their mental health... Considerable discussion about sensory deprivation took place during the latter stages of Katingal's construction... Dr. Lucas... made the point that solitary confinement can, in some circumstances, amount to torture. (*ibid*)

ABC Radio National said, "Katingal became a symbol of everything that was wrong with the state's prisons, a focus of public protest by an unlikely alliance of lawyers, journalists and unions..." (*Hindsight* 13 October 2002)

The Hon. Dr Meredith Burgmann described Katingal as,

...the high-tech unit at Long Bay gaol which is so high tech that it now cannot be converted to any other purpose. Indeed, it is built so strongly and is such a terrible obscenity of concrete and iron bars that it would cost a great deal to even demolish it. (Hansard Transcript, 4 March 1993)

Katingal was closed in 1978 following the recommendations of the Nagle Report.

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It would appear, from reports, that the HRMU has fallen victim to the same problems that caused the condemnation and closure of Grafton and Katingal. Specifically, prisoners are often assigned to the HRMU without justification, and have not been given any indication of when they will be returned to the prison population. The issue of solitary confinement is a serious problem which does not seem to have been addressed in the design of the HRMU. Instead of addressing these concerns, Mr. Woodham stated, "There are a lot of lessons from the Katingal experience. Katingal had no perimeter security. Prisoners broke the unbreakable glass, they broke into it and they broke out of it." (SMH, May 14, 2001)

The Nagle Report recommended the English solution to the problem;

Katingal is not the only means whereby the prison community can be protected from its predators. The English penal authorities favour the dispersal system in which such prisoners are contained in one of a number of units dispersed through various prisons. There is no reason why the dispersal system cannot be resumed in New South Wales and the Commission considers it to be the proper method of containing dangerous prisoners. (Nagle, p. 131)

Dangers of Segregation Units

Had the Nagle Report's recommendation been followed, there would be no need for the HRMU to exist. By continuing the philosophy of the 'box inside a box', the Department of Corrective Services has in effect encouraged senior prison officers to abandon any attempt to rehabilitate and educate a sub-group of prisoners. If troubling cases can be further removed from the prison population, oversight becomes negligible, and the result is structural and social brutality. Any attempt to use the prison experience to socialise, build community responsibility, and prepare the prisoners for release is abandoned.

Richard Harding, Inspector of Custodial Services in Western Australia acknowledged the inherent dangers involved in a 'prison within a prison',

Whatever form it takes, the treatment of prisoners who are segregated from mainstream accommodation and services is a vital indicator of the health of a prison. From the prisoner perspective, if the experience of being taken "down the back" is seen as little more than the arbitrary and oppressive exercise of authority by line management, great tensions may build up over time. For example, one of the immediate triggers for the riots of 25th December 1998 at Casuarina itself was the decision of officers to take a prisoner to the Special Handling Unit.

...recent research (Kupers 1999 10) has indicated that "the forced idleness and isolation in these [segregation] units cause many previously stable men and women to exhibit signs of serious mental illness".

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...the Standard Guidelines for Corrections in Australia and New Zealand (1996), which are the domestic version of the United Nations Standard Minimum Rules for the Treatment of Prisoners, proceed from the assumption that separate confinement may well have a deleterious effect on physical or mental health: see Guidelines 5.33. - 5.34. (*Report of an Unannounced Inspection of the Induction and Orientation Unit and the Special Handling Unit at Casuarina Prison, 2000, pp. 4-5*)

In a UK report on the "Close Supervision Centres", HM Inspectorate of Prisons reported, "The longest continuous stay on D wing was 206 days or almost seven months... When the prisoners were asked how they coped, they listed a variety of strategies, but their main fear was of 'losing their minds'. (*Inspection of Close Supervision Centres, August – September 1999*)

Reports from HRMU prisoners

The reports of 'tensions' that have come to our attention are:

Prisoner A, who has been banging his head against the wall and has nearly severed his fingers by slamming the door on them, reports,

This place is purposely built as a basic box in a box. Once our back door is closed there is no natural ventilation and no natural light... The lack of air in cells or claustrophobia are both related to it's a box and once I feel the walls closing in and I realise there is no air, no openings. Yet I can see air and know its outside the door and that is what causes me to panic as I know I can't get to it... In other units the ASU or MPU I could always get to the grille and breathe in fresh air and after a few minutes I would feel better, in here one cannot do this.

These conditions were also reported by a visitor, constitute inhumane treatment, and violate the UN Standard Rules,

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

11. In all places where prisoners are required to live or work,

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation...

Prisoner B, who suffered from paranoid schizophrenia, was held on remand for "Assault & Malicious Damage" and was placed in a cell with a convicted prisoner on strict protection (regarded as a paedophile) on his first day in custody. The next day,

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the prisoner on strict protection was found dead, and this death was the reason given by Corrective Services for Prisoner B's placement in the HRMU. The placement of Prisoner B with a convicted prisoner violated section 85 (1) of the UN Standard Rules; "Untried prisoners shall be kept separate from convicted prisoners."

Prisoner C was placed in the HRMU, "...following his involvement in a riot which caused significant damage to the centre." However, Prisoner C claims he is innocent, and was never formally charged with this offence. This violates section 30 (2) of the UN Standard Rules; "No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case."

We respectfully submit that in the light of these reports, an independent inspection is needed to assess the nature of conditions in the unit and compare them to the social alternative. At the very least this will reassure the public that conditions in the HRMU are humane.

We would be grateful if you acknowledged receipt of this letter by fax, and urgently accede to the request.

Thank you for your consideration.

Sincerely,

Stacy Scheff
Spokesperson
June 4, 2003

CC: Dr. Richard Matthews, Corrections Health Service
Justice John Dowd, International Commission of Jurists
Mr. Steve Griffin, Acting Inspector-General of Corrective Services

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