

# APPENDIX 1

## TERMS OF REFERENCE



## COMMISSION OF REVIEW INTO CORRECTIVE SERVICES IN QUEENSLAND

### TERMS OF REFERENCE

IN THE PUBLIC INTEREST WHAT CHANGES, IF ANY, SHOULD BE MADE IN THE ORGANISATION, ADMINISTRATION AND OPERATION OF THE QUEENSLAND PRISON SYSTEM, INCLUDING, INTER ALIA, CHANGES IN RELATION TO:—

- (a) *The efficiency, management and design of prisons* including:
- the use and allocation of resources by the Prisons Department;
  - the adequacy of facilities provided;
  - the cost effectiveness and desirability of introducing private sector involvement in the operation of all or part of the prison system.
- (b) *The future direction of Corrective Services* including:
- opportunities for further alternative sentencing options;
  - the segregation of youthful prisoners, first offenders and low risk prisoners from other prisoners;
  - the need for secure confinement of high risk and violent offenders;
  - confinement of persons on remand;
  - the increased use of community based alternatives to secure the supervised confinement such as parole, release to work and house detention.
- (When considering the future direction of Corrective Services, the Committee is required to take in to account demographic and social factors, the public's attitude towards corrections, the future demand for and cost of Correctional Services, and new developments and programs for the management of offenders).
- (c) *The recruitment, training, development and promotion of Prison Officers* including:
- their terms of employment;
  - the provision of support services;
  - the integration of non-uniform staff (welfare officers-psychologists etc.) with uniform staff into a single professional custodial service;
  - the special needs of Prison Officers' families;
  - the rights, responsibilities and accountability of Prison Officers;
  - grievance procedures for Prison Officers;
  - the adequacy of staffing levels;
- (d) *Services to, and the welfare of, Prisoners* including:
- programs for re-integration into society;
  - prisoners physical requirements, their health and welfare;
  - prisoner counselling;
  - contact with family and friends;
  - opportunities for education, training, work, recreation and self improvement;

- the special needs of certain prisoner groups, such as Aboriginals, long term prisoners, intellectually handicapped prisoners and drug and alcohol dependent prisoners;
- the rights of prisoners;
- grievance procedures of prisoners;
- incentives to rehabilitation;
- the special needs of prisoners' families.

## APPENDIX 2

### EXTRACT FROM POLICE DEPARTMENT SUBMISSION

#### APPENDIX 2

#### SUBMISSION ANENT THE FORMATION OF A PRISON LIAISON OFFICE

##### (a) *Historical—Prisoner Involvement*

It has been promulgated that a prisoner is in Prison as punishment, and not for punishment. A system has been developed and refined over the years whereby a somewhat regulated society has been created within the Prison System to control the activities of prison inmates. This system has been developed by the prisoners themselves so that there is a society within a society. The majority of the inner society is governed by the rule of the fist, harassment and intimidation.

The purveyors of this inner society are well known but always ensure that their activities are covert and that they are never involved directly with any action they decree to be taken. This hierarchy can, through the system, convey their decisions to any part of the prison system, to the extent that all prisons in Queensland become aware of any action that may be forthcoming. In the prison system, strength determines who makes these decisions and these decisions are enforced upon the rank and file of the prison population in general.

The strength of the individual is determined by physical strength, by his bartering ability, his ability to receive favours and equipment, his ability to cater for the needs of the prison population and, to some extent, the type of crime for which he has been incarcerated.

The hierarchy can enforce silence, non-cooperation, restraint, non-restraint, subservience, and involvement. They hold sway over the directions of the everyday lives of the inmates of prisons. They can ultimately disrupt the system, secure in the knowledge that no action can be taken against them because of their 'non-involvement' in the disruption.

The majority of prisoners wish merely to serve out their time without fuss, but are drawn into a system where non-cooperation with the direction and orders of the hierarchy will lead them into direct conflict with those whose only desire is to circumvent the orderly conduct of the prison system. They then become victims, as surely as if they were offended against in the outside society.

##### (b) *Historical—Prison Officers*

A prison officer is a public servant, depending on his employment to provide the basic necessities of life for himself and his family. He is acutely aware that the loss of his employment will ultimately result in a dramatic decrease in his living standards.

Prison officers are engaged in boring and non-productive duties, watching men and women throughout their duties, whom they are well aware despise and hate them. They are regarded as keepers, the enemy, for without them the prisoners would be free to enter the outside world. As they are not free, every effort is made by a minority of the prisoners to denigrate and degrade the prison officers whilst performing their duties and, in some cases, to harass and intimidate them upon their release.

There can be no doubt that some prison officers react unfavourably to their treatment by prisoners but the system is such that their actions go unchecked. They do not enter the Prison Service with any intention of over-reacting but their disillusionment at the system in which they can find no redress makes it easier for them to vent their frustration upon the inmates of the prison.

Such adverse behaviour is often alleged, seldom proven, and never redressed in a proper form. The system of complaints is such that a prison officer is often aware that a complaint is made against him before the police are advised. The 'buddy system' ensures that the suspect prison officer is advised of the complaint and then, to exacerbate the problem, harassment and intimidation occurs, in order that a prisoner not make further complaints against a prison officer.

Again, it has to be noted, that this behaviour occurs only in a small percentage of the prison officer population. It must be noted that, for perverse reasons, complaints are made against prison officers which are often false and, on occasions, frivolous.

There is a tendency for complaints to be made against prison officers who are diligent in their duties, who enforce basic discipline and who pose a threat to the continuance of the prisoner system of government. The result is that they soften their attitude to their duties, to give more latitude, which eventually results in a discipline problem with the various prisoners. They know that, if he performs his duty to the best of his ability, a timely complaint about his conduct will result in a couldn't care less attitude.

The prison officer then becomes a victim of the prison system which results in a less efficient Prison Service.

What is being said is that a vicious circle develops, whereby both the prison officer and the minority of prisoners become the puppets of the criminal hierarchy of the prison.

(c) *Historical—Police Involvement*

Involvement of the police within the Prison Service has been in force since the inception of the prison system. Prisoners are in prison because of police investigations. Basically, and without argument, prisoners look upon police in a lesser light than they do prison officers for, not only are they the reason they are in prison, but they are called upon to investigate prisoner and prison officer complaints.

Police are met with hostility whenever they enter a prison, merely because they are police, and not because they are the particular police officer who caused their imprisonment.

Police are called upon by prison authorities to investigate various offences committed within the prison system. In the main, such offences include:—

- (i) Assaults of the varying degree of seriousness (eg. Common Bodily Harm, Grievous Bodily Harm, Unlawful Wounding, etc).
- (ii) Acts involving indecent practices between males, carnal knowledge against the order of nature, indecent assaults, etc.
- (iii) Possession and supply of dangerous drugs.
- (iv) Escapes and attempted escapes from prisons.
- (v) Possession of instruments of escape.
- (vi) Arson.
- (vii) Wilful and unlawful damage/destruction to property.
- (viii) Riots.
- (ix) Breaches of the Acts and Statutes presently in force in Queensland.
- (x) Service and execution of Summons and Warrants upon prisoners.
- (xi) Interview of prisoners wanted in connection with criminal offences committed by them prior to imprisonment, as discovered by the Information Bureau, and other police establishments. (This category includes Criminal Offence Reports and files wherein a prisoner is named as a suspect.)

In respect to Her Majesty's Prison, Brisbane, general criminal offences are usually handled by members of the South Brisbane Area Office, drug offences by the Drug Squad and escapes by the Major Crime Squad. In other prisons in South East Queensland, such investigations are carried out by the local Criminal Investigation Branch. There is no central correlation of statistics of crime committed within the prison system by prisoners or of complaints or allegations made by prisoners and prison officers.

Intelligence matters are handled by the Bureau of Crime Intelligence, Queensland, through a system of conferences with the Security Superintendent at H.M. Prison, Brisbane. It is generally recognised that this area of involvement is of vital importance to this police force and should be exploited more fully.

It is noted that there is an uncoordinated involvement of police within the prison system and, again, it is generally agreed that efforts must be made to generate a united front to coordinate the various police functions.

(d) *Summary*

To overcome the problems which have arisen within the prison system, efforts should be made in the following directions:—

- (i) Identify and restrict the activities of those within the system who would disrupt the orderly functioning of the prison system.
- (ii) Identify and prevent the activities of prison officers within the system who profit by the manipulation of the system.
- (iii) Identify and take action against those prison officers within the system abusing their powers and authorities.
- (iv) Identify and take action against those prisoners within the system who engage in criminal acts within the system.
- (v) Collate and disburse intelligence information as received after evaluation.
- (vi) Prevent the entrance and exiting of contraband into and out of the prison system.
- (vii) Liaise and cooperate with prison authorities to identify and resolve problems within the prison system, as they affect both prison and police personnel.

## PRISON LIAISON OFFICE

### A. *Staff*

- (i) One (1) Detective Senior Sergeant
- (ii) One (1) Detective Sergeant 1/c or 2/c
- (iii) Two (2) Detective Senior Constables or Constables 1/c.

### B. *Facilities*

An office would be required to accommodate staff attached to this section. For security, such office should not be placed within any prison complex, as sensitive and restricted information would be present at this office. The office should not be placed within any existing police complex, in order to avoid the diversion of staff resources to other areas of criminal investigation.

Ideally, accommodation for the office could be found on the present premises occupied by the Prisons Department. This would enable close liaison between the Prison Liaison Office and prison authorities.

An office would be required at Her Majesty's Prison, Brisbane, for the purpose of interviewing prisoners and prison officers in respect to complaints and offences alleged to have been committed by them.

### C. *Funding*

There appears to be three areas from which funding can be obtained.

- (i) Police Department.
- (ii) Prisons Department.
- (iii) By Special Vote from the Government, being additional to the Police Department allocation within the Budget.

By far the best method of funding is (iii) in that it does not interfere with the operating budgets of the Police and Prisons Departments and, to some extent, ensures that such Office is autonomous from the Prisons Department whilst the Police Department retains responsibility.

### D. *Responsibility*

Such Office is responsible *solely* to the Detective Superintendent, Metropolitan Criminal Investigation, Brisbane, or to such other commissioned officer designated by him.

### E. *Special Requirements and Hazards Involved*

- (i) Risk of attack by anti-police prisoners.
- (ii) Required to be on 'call out'.
- (iii) To act with propriety in the face of verbal abuse and denigration from prisoners.
- (iv) Maintain strict confidentiality and security of restricted information.
- (v) Experience in major investigations and police enquiries.
- (vi) Widely known to be reliable and trustworthy.

F. *Job Description*

- (a) Investigate and make enquiries into all serious crime committed by prisoners within prisons in Queensland.
- (b) Investigate and make enquiries into all criminal offences and breaches of the law committed by prisoners within prisons in the South East Queensland region.
- (c) Investigate and make enquiries into all criminal offences and breaches of the law committed by prisoners, whilst not prisoners, prior to imprisonment, other than those as described in (g).
- (d) Investigate and make enquiries into all offences committed by members of the Prison Service within the prison system, and without the prison system, when such offences relate directly to their duties as prison officers.
- (e) Interview witnesses and obtain statements, prepare briefs for court presentation and give evidence as required, in respect to investigations conducted and charges laid.
- (f) Receive, assess, collate and disseminate intelligence information received from prison officers, prisoners or other persons in respect to matters pertaining to gaol inmates, security and activities.
- (g) Receive, assess, collate and disseminate intelligence information received from prison officers, prisoners or other persons in respect to offences committed by prisoners for the information and investigation of investigating officers and squads.
- (h) Develop and administer policy matters directly involving both police and prison personnel.
- (i) Ensure the immediate availability of police assistance to prison authorities when required including, but not confined to, Scientific Section, Photographic Section, Fingerprint Section, Radio Electronic Section, Breathalyzer Squad and Tactical Response Group.
- (j) Assist police by obtaining information concerning prisoner location, movement, release details, activities, crime-planning and other pertinent details.
- (k) Maintain a filing system on all matters pertaining to prisoners and prison officers coming under the notice of the Prison Liaison Office.
- (l) Advise, assist and guide prisoners on their request, provided such assistance and advice is not in contravention of the Rules of the Courts.
- (m) When requested, advise prison officials on security.
- (n) Monitor, throughout Queensland, the particulars, numbers and periods of time that prisoners are confined in Watchhouses on sentence and remand.
- (o) Attend meetings of the Prisoner Classification Committee and input any relevant information.
- (p) When necessary, supply such information as considered necessary to the Parole Board upon application by a prisoner for parole. Confer with arresting officer in each case for input into this Board.
- (q) Develop and maintain rapport with prison officers and attempt to develop associations with prisoners in order to fully exploit intelligence sources.
- (r) Prepare notes for and lecture prison officers and police attending training courses for promotion and development.
- (s) Liaise frequently with the Comptroller-General of Prisons and his Superintendents in order to advise of investigations being conducted, the result of investigations, and any other matters required by the Comptroller-General of Prisons.
- (t) Liaise with Mental Health Authority and advise on security aspects of the movement of dangerous prisoners committed to its institution.
- (u) Regularly liaise with the Superintendent (Security), Brisbane Prison, and Bureau of Crime Intelligence, Queensland in respect to intelligence received by those Sections.
- (v) Regularly liaise with Superintendents of prisons within Queensland and Bureau of Crime Intelligence, Queensland in respect to intelligence received by or at those prisons.
- (w) Develop and modify Standing Orders in respect to matters involving Prisons and Police Departments.
- (x) Prepare a report of the operations of the Prison Liaison Office for the information of the Comptroller-General of Prisons and the Detective Superintendent, Metropolitan Criminal Investigation Branch, Brisbane, for inclusion in the respective Departments' Annual Report to Cabinet.
- (y) Assist members of the Prison Service in the search of prisons for contraband.
- (z) Assist members of the Prison Service in duties pertaining to the search of prison officers, visitors, etc. for contraband entering or exiting from prisons within Queensland.

#### G. *Commentary—Staff*

As it is envisaged that a Police Liaison Office will attend to all investigations relating to allegations made against prison officers and all serious offences committed by prisoners in prisons throughout Queensland, a staff of four (4) men is considered a minimum.

It has been discussed by members involved in this submission that the possibility of a number of prison officers also be attached to the proposed Office. The prison officers themselves would have to be enthusiastic, trustworthy and experienced prison officers, who are familiar with the operations of the various prisons throughout Queensland. They must possess high ideals and be prepared to carry out duties without fear, favour or affection.

Such prison officers would not, and could not, for obvious reasons, be involved in any investigation commenced on any prison officer. However, they would be of invaluable service in the collection of intelligence from within the prison system. There are four categories of prisoners from whom intelligence can be obtained:—

- (a) Prisoners who will speak to prison officers but not police officers;
- (b) Prisoners who will speak to police officers but not prison officers;
- (c) Prisoners who will speak to either group;
- (d) Prisoners who will not speak to either group but who will speak to other prisoners who come within the category of (a), (b) or (c).

Further submissions in respect to various aspects of the duties of the staff will be discussed in later commentary.

#### *Commentary—Facilities*

If a Prison Liaison Office is to be formed then it is necessary to divorce it from any particular prison facility. If attached at one prison, it may be seen by other prisons personnel that such Office is for the use of that particular prison and not for the general benefit and use of all prison facilities.

It is necessary in each establishment for a Police Office to be established so that prisoners can be interviewed confidentially. If it is seen by prisoners that a particular prisoner is visiting police, then his health and wellbeing are at risk. It is also necessary that prisoners be allowed to speak to prisoners alone, with his permission, in respect to information or allegations he may wish to make. If such prisoner is required to give information in the presence of a prison officer, which is the case as it stands at the moment, then little, if any, information will be given for appropriate investigation.

The need for security is paramount, particularly as a Prison Liaison Office would necessarily contain confidential and restricted information. If the Office was placed within a prison complex, security could not be maintained without an adequate security system to protect such information. This in essence would involve unnecessary expenditure when facilities are presently available which have a high level of security inbuilt into the system so that information can be protected.

#### *Commentary—Funding*

To have a Prison Liaison Office as a viable proposition, funding would be required to cover the following equipment and supplies:—

- (a) Two (2) motor vehicles fitted with both Police and Prisons Department radios.
- (b) One (1) computer terminal with unrestricted access to Police Department records and information.
- (c) One (1) computer terminal with restricted access to Prisons Department records as determined by liaison between Police and Prisons Departments.
- (d) One (1) static radio system within the Prison Liaison Office.
- (e) Forms, documents and records are required for the successful operation of a Criminal Investigation Branch Office.
- (f) Office furniture and fittings.
- (g) Wages and expenses as projected over a full financial year.

#### *Commentary—Responsibility*

As police officers within the Police Liaison Office, such police officers can only be answerable to their direct superior officer. Whilst all requests and advice required by the Prisons Department would be acceded to, such Office should be autonomous from the Prisons Department in respect to the every day workings of such an Office.

#### *Commentary—Special Requirements*

This sub-heading is self explanatory and requires no further comment.

### *Commentary—Job Description*

(a) (b) (c) (d) (e) (s) (y) (z)

These sections of the Job Description involve the investigation into offences committed by inmates whilst within the prison system and the investigation of the conduct of prison officers, both within the prison system and outside the prison system, when such conduct directly involves their duties as prison officers.

It would be expected that members of a Police Liaison Office would, in respect to prisons in the South East area, carry out all inquiries and investigations in respect to prisons in that area, be it offences committed by prisoners or inquiries into the conduct of prison officers who come to the adverse notice of the members of the office whilst engaged in their duties as prison officers. If it is discovered that the conduct of prison officers outside the performance of their duties is such that such conduct reflects on their duties, then such investigations would necessarily be conducted by members of such Office.

It would not be feasible for members of the Office to investigate minor matters at prisons outside the South East Queensland area. Such matters would have to be investigated by members of the local Criminal Investigation Branch and the results of such inquiries be transmitted to the Office for proper correlation of statistics. If the matter was of a serious nature, then members of the Prison Liaison Office would assist in such investigations to supplement the local Criminal Investigation Branches.

As such investigations would be of prime importance to the Comptroller-General of Prisons, then the particulars and results of such investigations would be conveyed to him for his information and for the proper action to be taken by his Department.

Under no circumstances should the Prisons Department instruct members of the Office on what action is to be taken by that Office. Any decisions as to the course of investigation and the action to be taken as the result of such investigation will lie with the police officers.

Invariably, when prisoners make complaints regarding the actions of prison officers and evidence is not available to substantiate proceedings, such prisoners will be vexed at what they will perceive as a lack of action by members of the Office. The prisoners, through pressure group and the media, will make public allegations in order to disrupt the system. Any such allegations and pressure will be felt by the Prisons Department, the Police Department and the members of Parliament whose responsibility it is to oversee the management of these various Departments.

It is expected that a file in respect to each complaint be kept and maintained by members of the Prison Liaison Office and, in the event that a prisoner feels aggrieved by a decision of that Office, then such file be forwarded to an independent authority for assessment. Such authority can then direct that such other further investigations be made as it feels are necessary and, when completed to its satisfaction, a decision be made by that independent authority as to any/ what action is to be taken, having regard to all investigations and inquiries. Such a system will relieve the harassment of the various Departments and Parliamentarians.

Such a system of double checks will only be required upon the complaint of a prisoner against a prison officer. We can see no other necessity for the use of such a system. In this regard, perhaps consideration could be given for such independent authority to be a Crown Law officer or, as part of the portfolio of a revamped Police Complaints Tribunal.

(f) (g) (j) (k) (m) (q) (u) (v)

These duties refer to intelligence matters including the collection, collation, assessment and dissemination of matters vital to the security and activities of prisoners, both inside and outside the prison system.

A prison is a hot bed of activity and planning and the tapping of this knowledge is essential in the proper conduct of the prison system by the prison officers and for the proper administration of the law by the Police Department.

The Australian Bureau of Crime Intelligence and the Bureau of Crime Intelligence, Queensland, are presently engaged in collecting and collating intelligence from prisons for the benefit of all police forces in Australia.

Members of the Bureau of Crime Intelligence, Queensland and the Australian Bureau of Crime Intelligence have been interviewed by Mr J. Kennedy and their submissions have been made known to him.

(h) (o) (p) (w) (t)

These duties would include input into the Prisons Department and ancillary sections concerned with the administration of the prison system.

Provisions (o) and (p) were discussed with Mr J. Kennedy and it was felt that strict guidelines should be developed for police involvement in such Boards. The Police Department cannot be seen to be colluding with the Boards in order to disadvantage any prisoner. Such guidelines would be the subject of further discussion should the submissions as to the formation of a Prison Liaison Office be acceded to.

The involvement in the Prisons Department by the police would necessarily involve joint cooperation by both Departments. The police in such an Office would be obliged to obey the



rules and regulations governing the conduct of the Prisons Department. Where Prisons Department rules conflict with Police General Instructions, then a consensus would have to be reached for the proper administration of both Departments. The Prison Liaison Office would be responsible for the ensurance that such guidelines were complied with by other members of the Police Force.

Provision (t) was also introduced by Mr J. Kennedy in discussions and, under the circumstances, we can find no objection to attending to this point. It would involve the notification to the Office of the release or escape of mental patients throughout Queensland, as well as other relevant particulars which would be of assistance to such an Office.

Standing Orders presently in use by Prisons and Police Departments for contingencies such as riots and strikes by prison officers, would be examined and modified so that an updated catalogue of responsibilities could be used in such events. By liaison between the respective Departments, a position could be reached so that the cooperation between the Departments and the use of resources could be maximised.

(i)

The Police Department is in possession of resources not available to members of the Prison Service and to fully exploit such resources, it is proposed that the Prison Service could call upon such resources if required in any event.

Most of the sections named in (i) are presently used by police for the investigation of matters arising at the prisons, but it has been found that education of the members of the Prison Service is essential to deal with possible exhibits properly in the first instance so that evidence is not destroyed. This aspect would be covered in provision (r).

The one Section not utilised by the Prisons Department at present is the resource of the Breathalyzer Section. Alcohol is found to be one of the main causes of trouble within any prison complex. It is envisaged that, if a prisoner is suspected of ingesting alcohol, then he be required to submit to a test on an Alcometer. If he is found to have *any* alcohol in his system, then the services of an authorised breathalyzer operator be obtained for an exact reading of his alcohol concentration. Advice from the Breathalyzer Section has revealed that such a system can be applied to the prison system, providing there is an area within the Prisons Act which can cover this contingency.

With the use of this resource, it is possible that suspected drunk inmates can be separated from the general prisoner population and therefore avoid any confrontation.

(r)

Both the Prisons and Police Departments would have to be made aware of the activities and responsibilities of the Office and, in this regard, lectures can be prepared for delivery to either group. Without the education of the groups, then it is not possible to fully exploit the resources of each and every prison and police officer.

(x)

This provision is self explanatory and requires no further comment.

### *Summary*

It is expected, as it has been found in the past, that there will be a degree of resistance by personnel of the Prisons Department to the formation of a Prisons Liaison Office.

Some members of the Prison Service and some members of the hierarchy resent any outsider entering within the ranks of their Department, as an affront, particularly when part of their duties involves the investigation of prison officers. However, if a group is not in operation, to investigate claims by disgruntled prisoners, the Prisons Department will find itself in the same boat as the Police Department finds itself now.

Police officers within the prison system can offer an expertise which is not available to the ordinary officer of the Prison Service. Police officers are full time investigators and, if the proper police officers are found to form such a group, then they can only enhance the image of the Prison Service. There can be no valid objection to cleaning out the Service of those elements who bring discredit to the Prison Service and whose actions endanger the health and lives of those honest and industrious prison officers.

This system has worked well in New South Wales and Victoria and we can see no reason why the same or a similar system cannot operate successfully in Queensland.

The system will give a central base for inquiries and investigations to be carried out. It will relieve the burden from both the Prisons and Police Departments if investigations are carried out competently and correctly and we have no doubt that, in the future, it will become widely accepted by prison officer and prisoner alike, providing a high degree of credibility is maintained. The system can be used for the benefit of Police and Prisons Departments alike and remove pressure from these Departments and Parliamentarians, particularly the Minister for Prisons, who is called upon frequently to explain the actions of his Department.

Under these circumstances, we earnestly request that consideration be given to these submissions.