

Inspector's Overview

We undertook this Review following publication in June 2020 of our report titled *Routine restraint of people in custody in Western Australia*. The routine restraint report found that there was a lack of reliable system level data recording the use of routine restraints and that there was some ambiguity in the relevant policy and procedures framework.

This review examining use of force has reached similar conclusions.

The major difficulty we found during this review was that data lacked clarity between the use of force and use of restraint. In simple terms, use of force is used in response to an incident, and use of restraint is used in response to potential risk.

Recent changes by the Department of Justice to relevant policies and the offender database have been positive and go some way towards addressing these concerns. However, we identified that confusion still exists, and further work and training is required before the benefits can be fully realised.

Accurate recording and reporting of incident data are critical first steps in ensuring accountability and effective oversight and governance. They form the foundation of the oversight mechanism and inform the review work undertaken by the internal Use of Force Committees, that have been put in place to assess use of force incidents. But it goes further than the internal review of individual incidents. Accurate incident data is also essential for systemic analysis and identification of good practice, emerging trends, and areas requiring improvement.

Our analysis of the data suggests that vulnerable prisoners are more often involved in use of force incidents compared to the remainder of the prison population. Vulnerable prisoners included remand prisoners, prisoners with mental health issues, prisoners with cognitive impairments, and Aboriginal prisoners.

But caution must be applied in interpreting this initial analysis. We have not undertaken a deep dive analysis of the data for each incident of use of force. This is a body of work that was beyond the scope of this review. This does, however, point to the need for more detailed research and data analysis to understand the drivers behind the data and whether there are learnings to be gained from a broader systemic analysis.

Consistent with our usual practice, we provided a draft copy of this report to the Department and Serco, the private operator of Acacia prison, for comment and response to the proposed recommendations. Both responses have been valuable in clarifying several areas covered in the draft and have been reflected in our final report. Both responses are also attached as appendices to this report.

One key point emphasised in both responses was the difference between use of force and use of restraint. At the risk of some repetition, we have clarified this in several areas of the final report.

The Department responded positively to all bar one recommendation (recommendation 6 was not supported), noting that several would require additional funding and/or prioritisation over other initiatives. We welcomed the positive response to recommendation 1 which relates to clarifying ambiguity and ensuring accurate and reliable reporting. This is the one recommendation that will have the greatest impact towards improving overall accountability and governance around use of force in prisons.

It is important to acknowledge the contribution and assistance we received in undertaking this review from key personnel in the Department and at the privately managed facility, Acacia Prison. It is important to also acknowledge the hard work and significant contribution of the team within our office in planning and undertaking this review. I would particularly acknowledge the work of Cherie O'Connor in leading this review and as principal drafter of this report.

Eamon Ryan
Inspector

14 May 2021