



Government of **Western Australia**
Department of **Justice**
Corrective Services

Response to Review:

Snapshot Series: The Special Handling Unit at Casuarina Prison

May 2023

Version 1.1

Response Overview

Introduction

The Snapshot Series Review into the *Special Handling Unit at Casuarina Prison* (the SHU Review) was announced by the Office of the Inspector of Custodial Services (OICS) on 29 August 2022. A wide range of documentation, statistics and access to systems, policies, processes, custodial facilities including staff and prisoners were made available to OICS upon request for the purpose of the review.

On 27 February 2023, OICS provided a debrief on the SHU Review findings and on 11 April 2023, the Department of Justice (the Department) received the draft report for review and comment. The draft report highlighted the key findings and made seven recommendations. The Department has reviewed the draft report and provides further context, comments, and responses to the recommendations.

Appendix A contains comments linked to sections in the draft report for the Inspector's consideration when finalising the report.

Review Comments

The Special Handling Unit (SHU) is a highly specialised facility within Casuarina Prison (Casuarina) that accommodates prisoners whose offences and/or behaviour pose a major threat to the good order and safety of custodial facilities and requires they be subject to the highest level of staff supervision and the maximum level of secure accommodation. The SHU is the only such facility in a prison in Western Australia.

In accordance with Commonwealth legislation, the SHU may also be used to hold persons upon request by the Western Australia Police, or the Australian Federal Police. The purpose and function of the SHU are well known and understood by custodial staff at Casuarina.

Daily life in the SHU is highly controlled and restricted, this is necessary to ensure the associated risks SHU prisoners pose can be managed effectively and custodial staff can respond and take control of incidents within the SHU immediately.

Prisoners in the SHU are provided intensive supervision whilst enabling behavioural changes that allow them to return to mainstream conditions, this includes intensive support and increased access to psychologists and psychiatrists.

The SHU has evolved over the years and has an established policy framework that outlines the policies and procedures, together with improved governance and oversight processes for the ongoing management of prisoners within the SHU and responsibilities for SHU staff.

The new Commissioner's Operating Policy and Procedure (COPP) 4.11 *Special Handling Unit*, implemented in December 2021, sets out clear instructions on the application, assessment, and approval processes for SHU placements and now provides for a high level of decision making for the placement and management of prisoners in the SHU.

The revised Terms of Reference for the SHU Committee clarifies the role of the Committee and provides increased oversight through a multi-disciplinary approach to the monthly reviews and ongoing treatment and management of prisoners in the SHU. The Committee is also provided with technical expertise and up to date intelligence to ensure decisions are evidence-based and risk informed.

Prisoners are given the opportunity to provide their views to the Committee regarding their ongoing placement in the SHU and have input into the development of their exit strategy that allows them to be placed in mainstream. Expectations around behaviour and improvements required to transition to mainstream are discussed at case conferences and interviews with prisoners. The prisoner's ongoing behaviour and the risks they pose if returned to mainstream is continually assessed by the Committee and only when satisfied the prisoner's risk behaviours have been mitigated or can be managed, the Committee may recommend removal from the SHU.

OICS has commended the Department for the improvements made to the operations of the SHU by comparing its operations to previous years. Despite the complexities involved, OICS has *'found no evidence to suggest that management were not acting in the best interests of the prisoners or the prison'*.

OICS has also recognised that *'for some prisoners, it may not be possible to sufficiently mitigate the risks to the safety of others and it is unlikely they will return to a mainstream unit'*. This is evidenced by the long-term placement of some of the prisoners in the SHU.

The Department acknowledges the need for good governance practices to demonstrate accountability and transparency in decision making and therefore improvements have been implemented in TOMS to improve the way in which a prisoner's daily routine in the SHU is recorded. Additionally, changes to enable a prisoner's ongoing review to be documented within the Assessments module in TOMS is nearing implementation. The SHU Committee has been advised of the importance of recording detailed and accurate information within the minutes of the SHU meetings and all Committee members have an obligation to ensure the accuracy of the minutes.

The Department supports the principle of the development of behavioral benchmarks that prisoners should achieve prior to transitioning back into mainstream, however, a cautionary approach must be taken when developing the benchmarks to ensure prisoners are unable to manipulate the system. Safeguards will be required to ensure SHU prisoner behaviour can be identified as a genuine effort of rehabilitation, rather than imitating false behaviours to meet a benchmark and manipulate their placement back to mainstream.

The Department acknowledges the SHU is not the best site for prisoners with mental health issues and welcomes the State Government's announcement of the expansion to the Graylands Hospital which will see the number of forensic mental health beds in the state increased. The Department was represented on the Graylands Taskforce by the Director General and provided detailed assessments of the number of forensic mental health beds likely to be required by remandees, sentenced prisoners and those classed as 'unfit to plead' under the *Criminal Law (Mentally Impaired Accused) Act 1996*. Once in place, it is expected the expansion will reduce the burden on the Department in the long-term for holding critically mentally unwell prisoners, including those that may be housed in the SHU or other specialised units in the Department.

Out of cell hours for prisoners in the SHU are generally lower compared to the mainstream population. It is important to distinguish the increased risks of managing SHU prisoners, including their interactions with other SHU prisoners, and these risks must be carefully assessed and managed to ensure the safety of prisoners and staff.

While the Department supports increasing out of cell time for people in custody where possible, this is not always conducive to the environment of the SHU. Despite this, the

report findings demonstrate that SHU prisoners are receiving the minimum daily requirement for out of cell hours.

Due to the unique high-risk environment of the SHU, it is important that staff working in the SHU are highly experienced and skilled in managing the highest risk prisoners that pose a major threat and can respond and take control of incidents spontaneously as they occur whilst maintaining the safety and security of all staff and prisoners in the SHU. Due to the multi-faceted and complex reasons for a prisoner's placement in the SHU, there are distinct advantages to having experienced SHU staff who are familiar with the prisoners' historical behaviours and personality traits. The Department makes no gender distinction regarding staff placements in the SHU and all staff are encouraged and supported to apply.

Being placed in the SHU does not exclude a prisoner from criminogenic program participation, however given all programs are delivered via group interventions, the Department acknowledges it is difficult for SHU prisoners to participate given the limitations on their ability to interact with other prisoners. Furthermore, SHU prisoners may not be eligible for participation in accordance with eligibility requirements set by the program facilitators given their high-risk status. Individual therapeutic interventions to address problematic behaviour however are provided where possible to enable prisoners exit the SHU and transition to mainstream.

The Department is also exploring alternative methods of program delivery and has commenced two projects, the 'Building Contemporary Offender Programs' and 'Transforming Offender Programs' projects to improve systems and processes for accessing best-practice and fit for purpose contemporary programs.

The Department is committed to ensuring the SHU operates as effectively as possible giving prisoners every opportunity to improve their behaviour and return to mainstream as quickly as possible. The Department has supported five of the seven recommendations made by OICS and has identified further actions that will be taken to implement these recommendations.

Response to Recommendations

1 Develop behavioural ‘benchmarks’ that are measurable and achievable with progress considered and documented by the Committee during monthly meetings.

Level of Acceptance: Supported in Principle
Responsible Division: Corrective Services
Responsible Directorate: Adult Male Prisons

Response:

The Department acknowledges risk-based behaviour expectations may be relevant for some prisoners placed in the SHU and that the establishment of clear, achievable, and measurable behavioural benchmarks will benefit both prisoners and staff. This however may vary from prisoner to prisoner and the current process allows for benchmarks to be applied through behavioural expectations as documented in an exit plan that prisoners must achieve prior to transitioning back into mainstream.

COPP 4.11 is scheduled for review in Q1 2024. This review will consider the feasibility of the development of risk-based behaviour expectations in a prisoner's assessment and review processes.

2 Explore targeted behaviour management interventions that could be introduced in the SHU to assist prisoners to address their behaviour.

Level of Acceptance: Supported – Current Practice / Project
Responsible Division: Corrective Services
Responsible Directorate: Adult Male Prisons

Response:

Prisoners placed in the SHU are managed in accordance with the Department's policies and procedures including COPP – 10.1 Prisoner Behaviour Management and COPP 10.7 – Separate Confinement.

All interventions provided to prisoners in the SHU are individual for security and safety reasons. Where appropriate, a multi-disciplinary approach is used to identify and implement an individualised plan which details and describes the key elements for managing the prisoner. This may include individual therapeutic interventions to address problematic behaviour that will enable prisoners to exit the SHU and transition to mainstream. Prisoners are also given the opportunity to provide their views to the SHU Committee regarding their ongoing placement in the SHU and have input into the development of their individualised plan.

Expectations around behaviour and improvements required to transition to mainstream are discussed at case conferences and interviews with prisoners. The prisoner's ongoing behaviour and the risks they pose if returned to mainstream is continually assessed by the SHU Committee and only when satisfied the prisoner's risk behaviours have been mitigated or can be managed, the Committee may recommend removal from the SHU.

The Department will continue to look at ways to improve intervention opportunities to prisoners in the SHU as part of ongoing business review and improvement processes.

3 Ensure forced removal of clothing practices are consistent with COPP 11.3 – Use of Force and performed as a last resort and as planned use of force.

Level of Acceptance: Supported – Current Practice / Project
Responsible Division: Corrective Services
Responsible Directorate: Adult Male Prisons

Response:

COPP 11.3 Use of Force and restraints emphasises that: *'...If the requirement to remove the prisoner's clothing remains, the planned use of force procedures shall apply'*.

The COPP also re-iterates that the search must be conducted in accordance with COPP 11.2 – Searching and recorded on TOMS. To further ensure that custodial officers are complying with COPP 11.2, Superintendent Casuarina will issue a notice to officers reminding officers that:

1. The removal of clothing is only used as a last resort; and
2. Officers are to ensure, where practicable, that a prisoners clothing is not removed in common areas and that effort should be made to maintain the dignity of the prisoner.

4 Introduce a maximum tenure period for SHU staff or identify alternative measures to mitigate the risk of grooming.

Level of Acceptance: Not Supported
Responsible Division: Corrective Services
Responsible Directorate: Adult Male Prisons

Response:

The SHU is a unique correctional environment requiring a complement of experienced staff to manage the highest risk prisoners whilst maintaining the safety and security of all staff and prisoners. There is a fine balance between having experienced SHU staff and new staff within the SHU. Due to the multi-faceted and complex reasons for a prisoner's placement in the SHU, there are distinct advantages to having experienced SHU staff who are familiar with the prisoners' historical behaviours and personality traits.

To mitigate the risk of grooming and staff fatigue, there is a rolling roster in place for staff to move from the SHU to the Multi-Purpose Unit (MPU). This ensures that staff are frequently rostered out of the SHU while ensuring there are an adequate number of experienced SHU staff on shift on any given day to ensure the good order and security of the SHU. Should a staff member in the SHU be found to have been groomed and/or have engaged in inappropriate behaviour, the staff member's placement in the SHU will be reviewed by senior management and if it is deemed appropriate, the staff member will be removed from the SHU roster and referred to the Departments Professional Standards Directorate (PSD) for assessment and/or investigation.

Recruitment to the SHU is undertaken via Expressions of Interest and all staff, including females, are encouraged and supported to apply.

Additionally, prison staff receive ethical behaviour and grooming training as part of their employment with the Department. Locally, Casuarina Prison's Integrity and Ethics Committee provides oversight to mitigate against risks such as the grooming of staff, with additional oversight provided by PSD within the People Culture and Standards Division.

5 Provide enhanced mental health and trauma informed practice training to custodial staff in the SHU.

Level of Acceptance: Supported – Current Practice / Project
Responsible Division: Corrective Services
Responsible Directorate: Operational Support

Response:

The Department has a number of resources available to staff, including those who work in the SHU, to refresh previously acquired skills and knowledge related to Mental Health, Suicide Prevention and Trauma Informed Practice.

In addition to the essential training requirements, all officers are required to complete six online training modules developed in collaboration with the Mental Health Commission (MHC), and suicide prevention ARMS / SAMS modules. Both sets of modules have been designed specifically for custodial staff and must be completed every three years. All modules have recently been updated and are currently being programmed for compatibility with Corrective Services' new learning management system, iLearn, and will be made available through this mechanism commencing this financial year.

6 Review the format and detail within SHU Committee minutes to ensure that they are a true and accurate recording of the meeting, capturing case management discussions, decisions and actions.

Level of Acceptance: Supported
Responsible Division: Corrective Services
Responsible Directorate: Adult Male Prisons

Response:

The Department acknowledges the need for good governance practices to demonstrate accountability and transparency in decision making. Improvements with the way in which a prisoner's placement in the SHU is recorded in TOMS are ongoing. For example, changes have recently been implemented in TOMS to improve the way in which a prisoner's daily routine in the SHU is recorded (now within the Supervision Level module).

Additionally, changes to enable a prisoner's ongoing review to be documented within the Assessments module in TOMS are awaiting final approval prior to implementation.

Processes have also been implemented to ensure minutes of SHU Committee meetings are detailed and accurate.

The review of COPP 4.11 scheduled for Q1 2024 will consider the functions of the SHU Committee management, and how governance processes can be improved.

7 Amend COPP 4.11 – Special Handling Unit to require all supporting evidence relied upon to support a decision to place a prisoner in the SHU must be included in the placement application.

Level of Acceptance: Not Supported
Responsible Division: Corrective Services
Responsible Directorate: Operational Support

Response:

The process of preparing and considering SHU placement applications are adequately outlined in COPP 4.11 in its current form. Provision 4.3.2 stipulates that applications for a prisoner to be placed in the SHU must clearly detail the reason for placement in the SHU and may include documentation or evidence to support such placement.

It is also noted that following the amendment of COPP 4.11 in December 2021, application and decision-making processes are now on TOMS which provide a further level of transparency and oversight into the decision-making process.