

STANDING COMMITTEE ON LAW AND JUSTICE  
INQUIRY INTO SECURITY CLASSIFICATION AND MANAGEMENT OF INMATES SENTENCED TO  
LIFE IMPRISONMENT

**Supplementary questions: Former Inspector of Custodial Services**

1. How has Corrective Services NSW responded to your recommendations made in your report 'Lifers: Classification and Regression'?

The Acting Commissioner's response is published on the Inspector of Custodial Services website at <http://www.custodialinspector.justice.nsw.gov.au/Documents/Corrective%20Services%20NSW%20Response%20to%20Lifers%20Classification%20and%20regression.pdf>

The relevant extract is as follows:

Recommendation 1: The Inspector recommends that CSNSW classification system review does not compromise the objectivity and integrity of the classification system.

Supported. Corrective Services NSW (CSNSW) is progressing a review of the classification system. This is a complex task and will require changes to the Offender Integrated Management System as well as re-writing classification manuals to provide guidance to staff. It is anticipated the review will be completed by the end of June 2016 after which operational changes to the system can be implemented.

Recommendation 2: The Inspector recommends that CSNSW should, in regressing inmates managed by the Serious Offenders Review Council, act in accordance with the *Crimes (Administration of Sentences) Regulation 2014*.

Supported.

Recommendation 3: The Inspector recommends that CSNSW should review the regression of the 12 inmates who are the subject of this report to ensure compliance with the *Crimes (Administration of Sentences) Regulation 2014*.

Noted. The classification of these inmates will be reviewed after the inquiry into the Security classification and management of inmates sentenced to life imprisonment, currently being conducted by the Legislative Council Standing Committee on Law and Justice has been completed.

Recommendation 4: The Inspector recommends that CSNSW develop its communication strategies to enable an improved understanding of the correctional system for victims.

Supported. CSNSW has initiated twice-yearly meetings with family members of the victims of murder, to provide information on the correctional system and discuss concerns.

The forms, letters and fact sheet used by CSNSW to communicate with victims are being reviewed with the expectation that they will be revised by the end of October 2015.

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2. Justice Action's submission to this inquiry discusses inmates' right to privacy. What are your views on this matter and how does it affect the role of victims in the classification and management of inmates?

A word on context. Privacy in the correctional setting is totally different from that experienced in and by the wider community. Privacy in the correctional setting is primarily related to occupancy patterns and density and has several components; tactile, visual, olfactory and auditory. While in "normal" society an individual can generally tolerate intrusion into one of these several privacy domains, the prison environment is characterised by a simultaneous assault on all the privacy domains of the individual.

It is not surprising then, however, that 'it is commonly held that among the deprivations which are most detrimental to the inmate is the absence of privacy which institutional life imposes' (Smith 1982: 209).

With gross overcrowding across the NSW correctional estate this is the daily experience of most inmates.

It is as inevitable as it will be welcome that this will receive increasing attention in the courts.

The High Court of New Zealand in *Taunoa v Attorney General* (2004) 7 HRNZ 379 found that the Department of Corrections had failed to meet regulatory requirements to install modesty screens in the cells of the Behavioural Modification Regime at Auckland Prison and that there was, as a result, no effective privacy.

So, against a background of totally compromised inmate privacy across multiple domains, we are pondering whether inmate classification and placement information, beyond that which is already available, should be provided to victims. I think there are two responses to this question. First,

there is no evidence that I have heard that victims want access to information on inmates to a degree that would offend the latter's privacy; the real problem emerges when victim "participation rights" are being considered. Second, the privacy of the details of an inmate's classification, sentence management and placement should be guarded by the same moral principles I referred to in my opening comments to the Committee. Such principles are a reflection of the sound guidance contained in the United Nations *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* that "...victims' rights must be without prejudice to the accused".

Smith, D. E. 1982, 'Privacy and Corrections: A Re-examination', *American Journal of Community Psychology*, 10: 2, April.