



Justice  
Inspector of  
Custodial Services

# Inspector of Custodial Services

Annual Report 2015-16



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Cover photo: Front entrance of Reiby Juvenile Justice Centre.

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# Contents

|   |           |
|---|-----------|
| <b>1 Overview</b>   | <b>4</b>  |
| <b>1.1 Administration</b>                                 | <b>4</b>  |
| 1.1.1 Premises  | 4         |
| 1.1.2 Staff   | 4         |
| 1.1.3 Budget  | 4         |
| 1.1.4 Additional resources                                | 4         |
| <b>1.2 Functions and powers</b>                           | <b>5</b>  |
| 1.2.1 Functions of the Inspector                          | 5         |
| 1.2.2 Powers of the Inspector                             | 6         |
| <b>1.3 Activities</b>                                     | <b>6</b>  |
| 1.3.1 Inspections   | 6         |
| 1.3.1.1 Aged inmates in NSW correctional centres          | 6         |
| 1.3.1.2 The inmate classification system                  | 7         |
| 1.3.1.3 Clothing and bedding in NSW correctional centres  | 7         |
| 1.3.1.4 Management of radicalised inmates                 | 7         |
| 1.3.1.5 Use of force in juvenile justice                  | 8         |
| 1.3.2 Liaison visits                                      | 8         |
| <b>1.4 Official Visitors</b>                              | <b>10</b> |
| 1.4.1 Overview  | 10        |
| 1.4.2 Appointment   | 10        |
| 1.4.3 Official Visitor conferences                        | 11        |
| <b>1.5 Conferences and collaborations</b>                 | <b>11</b> |
| <b>1.6 Relationships with other agencies</b>              | <b>11</b> |
| 1.6.1 Liaison and communication with primary stakeholders | 11        |
| 1.6.2 Response to recommendations                         | 12        |
| <b>1.7 Key observations from this period</b>              | <b>13</b> |
| <b>1.8 Resources and statutory obligations</b>            | <b>14</b> |
| <b>2 Legislation and corporate governance</b>             | <b>14</b> |
| 2.1 Government Information (Public Access) Act 2009       | 14        |
| 2.2 Reporting   | 14        |

# 1 Overview

## 1.1 Administration

### 1.1.1 Premises

The office of the Inspector of Custodial Services (ICS) is located on Level 13, 10 Spring Street, Sydney.

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### 1.1.2 Staff

The permanent staffing establishment of the office is the Inspector, two Senior Inspection/Research Officers, one Official Visitor Coordinator, one Executive Assistant and one Research Assistant.

Two new temporary positions for Senior Inspection/Research Officers were created in June 2016. One of those roles has been filled.

The permanent role of Research Assistant was filled in June 2016, after a request for additional support submitted in June 2015 was approved by the Department of Justice.

At the end of the reporting period the office had one temporary vacancy for a Senior Inspection/Research Officer.

### 1.1.3 Budget

The ICS is an independent statutory office. The budget for the 2015-16 financial year was \$2.1 million with actual costs of \$1.441 million.

NSW Treasury approved a carry forward of part of the annual budget from the 2015-16 financial year to the 2016-17 financial year. As a result, the reported 2015-16 annual budget has been reduced by \$300,000 and the 2016-17 annual budget has been increased by the same amount to \$2.4 million.

### 1.1.4 Additional resources

Expert consultants have been engaged on particular inspections to enhance the capacity of the office to examine specialised operational areas.

In particular, the Principal Inspector of the Youth Detention Inspectorate, from the Queensland Department of Justice, has assisted with the inspection of Juvenile Justice Centres.

The ICS has also sought to enhance its inspection planning by drawing on the knowledge and expertise of the 65 Official Visitors in the inspection planning process.

The office has also hosted interns under a programme offered through the University of NSW Faculty of Law and plans to continue to provide this opportunity to students in the next reporting period.

## 1.2 Functions and powers

The purpose of the ICS is to provide independent scrutiny of the conditions, treatment and outcomes for adults and young people in custody and to promote excellence in staff professional practice.

The Inspector is independent of Corrective Services NSW (CSNSW) and Juvenile Justice NSW (JJNSW) and reports directly to NSW Parliament.

Under the provisions of the *Inspector of Custodial Services Act 2012*, the Inspector is required to inspect all correctional centres once every five years, and every Juvenile Justice Centre once every three years.

The sites and assets included within the jurisdiction of the ICS include 33 correctional centres<sup>1</sup>, two transitional centres, six Juvenile Justice Centres, 48 court cell complexes<sup>2</sup>, an inmate transport fleet of 90 vehicles and a detainee transport fleet of 35 vehicles.

The Inspector does not respond to individual complaints and, where appropriate, may refer complaints received to relevant agencies and/or oversight bodies for resolution.

### 1.2.1 Functions of the Inspector

The functions of the Inspector are set out in section 6 of the *Inspector of Custodial Services Act 2012*.

#### 6 Principal functions of Inspector

- (1) The principal functions of the Inspector are as follows:
- (a) to inspect each custodial centre (other than Juvenile Justice Centres and juvenile correctional centres) at least once every 5 years,
  - (b) to inspect each Juvenile Justice Centre and juvenile correctional centre at least once every 3 years,
  - (c) to examine and review any custodial service at any time,
  - (d) to report to Parliament on each such inspection, examination or review,
  - (e) to report to Parliament on any particular issue or general matter relating to the functions of the Inspector if, in the Inspector's opinion, it is in the interest of any person or in the public interest to do so,
  - (f) to report to Parliament on any particular issue or general matter relating to the functions of the Inspector if requested to do so by the Minister,
  - (g) to include in any report such advice or recommendations as the Inspector thinks appropriate (including advice or recommendations relating to the efficiency, economy and proper administration of custodial centres and custodial services),
  - (h) to oversee Official Visitor programs conducted under the *Crimes (Administration of Sentences) Act 1999* and the *Children (Detention Centres) Act 1987*,
  - (i) to advise, train and assist Official Visitors in the exercise of the functions conferred or imposed on them under those Acts,
  - (j) such other functions as may be conferred or imposed on the Inspector under this or any other Act.
- (2) The functions of the Inspector may be exercised on the Inspector's own initiative, at the request of the Minister or in response to a reference by the Joint Committee or any public authority or public official.

1 This will become 34 correctional centres with the reopening of Berrima Correctional Centre on 27 September 2016, and then 35 with the transfer of Juniperina Juvenile Justice Centre to CSNSW in the second half of 2016.

2 The Amber Laurel Correctional Centre has been counted here as a court cell complex not a correctional centre as, during the reporting period, the primary function of the centre was as a 24-hour police/court cell complex.

## 1.2.2 Powers of the Inspector

The powers of the Inspector are set out in sections 7 and 8 of the *Inspector of Custodial Services Act 2012*.

### 7 Powers of Inspector

The Inspector in the exercise of the Inspector's functions:

- (a) is entitled to full access to the records of any custodial centre (including health records) and may make copies of, or take extracts from, those records and may remove and retain those copies or extracts, and
- (b) may visit and examine any custodial centre at any time the Inspector thinks fit, and
- (c) may require custodial centre staff members to supply information or produce documents or other things relating to any matter, or any class or kind of matters, concerning a custodial centre's operations, and
- (d) may require custodial centre staff members to attend before the Inspector to answer questions or produce documents or other things relating to a custodial centre's operations, and
- (e) may refer matters relating to a custodial centre to other appropriate agencies for consideration or action, and
- (f) is entitled to be given access to persons in custody, detained or residing at any custodial centre for the purpose of communicating with them.

### 8 Incidental powers

The Inspector has power to do all things necessary to be done for or in connection with, or reasonably incidental to, the exercise of the Inspector's functions. Any specific powers conferred on the Inspector by this Act are not taken to limit by implication the generality of this section.

## 1.3 Activities

The activities of the ICS relate to the inspection of custodial facilities and services. In addition to inspections, the Inspector also conducts liaison visits to centres to inform inspection work, monitor the implementation of recommendations, provide the opportunity for information sharing, and meet with Official Visitors. These liaison visits are an essential part of building strong, effective and productive relationships with key stakeholders.

Inspector of Custodial Services staff attend relevant meetings, forums and conferences to stay abreast of current and best practice in adult corrections and juvenile justice, identify key issues and concerns, and liaise with experts and other stakeholders.

### 1.3.1 Inspections

To respond to its legislative obligations using the resources available, a theme-based model of inspection has been developed which allows multiple centres to be included in a single theme-based inspection.

The office consults with relevant agencies and stakeholders when determining inspection themes and centres to be examined, so that priorities, risks and issues can be identified and canvassed.

Over the 2015-16 financial year, the ICS undertook the following inspections:

#### 1.3.1.1 Aged inmates in NSW correctional centres

In May 2015 an inspection into the management and care of aged inmates in NSW correctional centres commenced. The inspection assessed the conditions for, and treatment of, aged inmates with particular

focus on the physical environments of correctional facilities and regimes for aged inmates, as well as healthcare provision and pre-release support.

The inspection was conducted across four correctional facilities to include specialised aged-care units and mainstream centres. These were Metropolitan Special Programs Centre Area 3, Silverwater Women's Correctional Centre, the Kevin Waller Unit and the Long Bay Hospital Aged Care and Rehabilitation Unit.

The rising number of aged inmates poses challenges for policy development, planning, duty-of-care obligations, the delivery of services across the NSW correctional system and end-of-life arrangements. The Inspector made 22 recommendations to CSNSW and Justice Health and Forensic Mental Health Network (JH&FMHN).

The report, *Old and Inside: Managing aged offenders in custody*, was tabled in NSW Parliament on 7 October 2015.

#### **1.3.1.2 The inmate classification system**

An inspection was conducted which examined the structure of the inmate classification system in NSW with particular reference to 12 life-sentenced inmates. The report made four recommendations including recommending a review and simplification of the classification system.

The report, *Lifers: Classification and regression*, was tabled in NSW Parliament on 15 September 2015.

#### **1.3.1.3 Clothing and bedding in NSW correctional centres**

An inspection into clothing and bedding was commenced by the former Inspector and will be completed by the current Inspector. The inspection examined Surry Hills Court Cells as well as Oberon, Cooma and Emu Plains correctional centres. The provision of appropriate clothing and bedding is an important factor in the quality of life for incarcerated people and has an impact on their health, comfort and morale.

A report, entitled *Prison greens: An inspection into the clothing and bedding of correctional centre inmates in NSW*, will be tabled in the next reporting period.

#### **1.3.1.4 Management of radicalised inmates**

The number of inmates in NSW who are charged or convicted with terrorism-related offences, although small, has increased significantly since 2014. In NSW and internationally, there has been a growing awareness of the need to increase our understanding of the risks associated with managing terrorist offenders and those inmates demonstrating violent extremist behaviours in custody. Violent extremism and radicalisation present challenges to prison systems with respect to security measures, regimes and conditions, and rehabilitation.

Following a violent inmate-on-inmate assault at Mid North Coast Correctional Centre in April 2016, the Minister for Corrective Services requested that the Inspector examine the management of radicalised inmates.

Pursuant to this request, and in accordance with section 6(1)(f) of the *Inspector of Custodial Services Act 2012*, on 22 April 2016 the Inspector commenced an examination of approaches and practices to manage radicalised inmates in five maximum security centres: Metropolitan Remand and Reception Centre, Mid North Coast Correctional Centre, Goulburn Correctional Centre, High Risk Management Correctional Centre, Goulburn, and Lithgow Correctional Centre.

### 1.3.1.5 Use of force in juvenile justice

On 24 June 2016 an inspection commenced into how use of force against detainees in Juvenile Justice Centres in NSW is managed. This inspection is being carried out at six Juvenile Justice Centres: Acmena, Cobham, Frank Baxter, Orana, Reiby and Riverina. The inspection is examining relevant legislation, policies and procedures as well as the training and equipment provided to staff. The circumstances in which force is used and the types of force used against detainees are being examined. The inspection is also considering the actions taken in response to uses of force, to ensure appropriate accountability in relation to both individual incidents and use of force at the systemic level.

| Inspections 2015-16                                   |                             |
|---|-----------------------------|
| Centre  | Date                        |
| Silverwater Women's Correctional Centre               | July 2015                   |
| Cooma Correctional Centre                             | August 2015, September 2015 |
| Emu Plains Correctional Centre                        | September 2015, May 2016    |
| Oberon Correctional Centre                            | September 2015              |
| Surry Hills Court Cells                               | September 2015, May 2016    |
| Metropolitan Remand and Reception Centre, Silverwater | June 2016                   |
| High Risk Management Correctional Centre, Goulburn    | June 2016                   |

### 1.3.2 Liaison visits

Liaison visits inform inspection work, assist to monitor the implementation of recommendations, provide the opportunity for information sharing, and to meet with Official Visitors.

Effective inspection requires mutual respect and understanding between those inspecting the centres and staff where inspections are carried out. It is important for the staff of CSNSW and JJNSW to understand the purpose of independent custodial inspection and the approach being taken, and for inspection staff to have a detailed understanding of the custodial system and each centre within it. Liaison visits are an integral part of developing positive professional relationships between ICS staff and staff at the correctional centres and Juvenile Justice Centres.



| Liaison visits 2015-16                             |                         |
|--|-------------------------|
| Centre   | Date                    |
| Goulburn Correctional Centre                       | August 2015             |
| Mid North Coast Correctional Centre                | August 2015, April 2016 |
| Lithgow Correctional Centre                        | September 2015          |
| Queanbeyan Court Cells                             | September 2015          |
| Cobham Juvenile Justice Centre                     | December 2015, May 2016 |
| Parklea Correctional Centre                        | January 2016            |
| Orana Juvenile Justice Centre                      | April 2016, May 2016    |
| Reiby Juvenile Justice Centre                      | April 2016              |
| High Risk Management Correctional Centre, Goulburn | April 2016              |
| Goulburn Correctional Centre                       | April 2016              |
| Berrima Correctional Centre                        | April 2016              |
| Acmena Juvenile Justice Centre                     | April 2016              |
| Grafton Correctional Centre                        | April 2016              |
| Kariong Correctional Centre                        | April 2016              |
| Frank Baxter Juvenile Justice Centre               | April 2016              |
| Silverwater Correctional Centre                    | May 2016                |
| Riverina Juvenile Justice Centre                   | April 2016, May 2016    |
| Junee Correctional Centre                          | May 2016                |
| Mannus Correctional Centre                         | May 2016                |
| Juniperina Juvenile Justice Centre                 | May 2016                |
| Long Bay Correctional Centre                       | May 2016                |
| Wellington Correctional Centre                     | May 2016                |
| Brush Farm Corrective Services Academy             | June 2016               |
| Cessnock Correctional Centre                       | June 2016               |
| Tamworth Correctional Centre                       | June 2016               |
| Glen Innes Correctional Centre                     | June 2016               |

## 1.4 Official Visitors

### 1.4.1 Overview

Official Visitors are community representatives appointed by the Minister for Corrections to visit correctional centres and Juvenile Justice Centres in NSW. The role of Official Visitors is to be independent observers of the custodial environment, and to report on the conditions in custodial facilities and the types of issues that are of concern to detainees, inmates and staff.

The appointment of Official Visitors is established in NSW legislation – the *Crimes (Administration of Sentences) Act 1999* for the adult correctional system, and the *Children (Detention Centres) Act 1987* for the juvenile justice system.

Whilst at a given facility, Official Visitors record enquiries and complaints, and try to resolve them at the local level by speaking to staff. In the reporting period, 7,829 matters were recorded with Official Visitors as complaints.<sup>3</sup> Official Visitors also examine the facility and make a note of conditions which, where necessary, are communicated back to the ICS.

There are currently 58 CSNSW Official Visitors and seven<sup>4</sup> JJNSW Official Visitors who visit their assigned centres approximately once a fortnight throughout the year. Official Visitors attended 33 adult facilities and seven Juvenile Justice Centres located around NSW throughout the reporting period.

Corrective Services Official Visitors report to the Commissioner of Corrective Services (NSW) on a quarterly basis and to the Minister for Corrections and the Inspector on a six-monthly basis. Reports were provided to the Commissioner for the periods 1 July to 30 September 2015, 1 October to 31 December 2015, 1 January to 31 March 2016 and 1 April to 30 June 2016. The Minister and the Inspector received reports for the periods 1 July to 31 December 2015 and 1 January to 30 June 2016.

Juvenile Justice Official Visitors report twice a year to the Minister for Corrections and the Inspector for the periods 1 July to 31 December and 1 January to 30 June.

### 1.4.2 Appointment

Fifty-eight CSNSW Official Visitors and seven Juvenile Justice Official Visitors were appointed for a two-year period commencing in October 2015. Of the seven JJNSW Official Visitors, there were five new appointments and two reappointments. In relation to the CSNSW Official Visitors, there were 12 new appointments and 46 reappointments. This includes three Aboriginal Official Visitors who service all correctional centres throughout the state.

In June 2016, the JJNSW Official Visitor for Juniperina Juvenile Justice Centre transferred to Reiby Juvenile Justice Centre to provide continuity of service to the young people who moved to Reiby following the closure of Juniperina.

The Minister for Corrections has approved an additional six Aboriginal Official Visitor positions to the six Juvenile Justice Centres in NSW – Reiby, Frank Baxter, Cobham, Acmena, Riverina and Orana. The appointment of these additional Official Visitors will mean that Juvenile Justice Centres will be visited on a weekly basis.

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3 As per records held for Corrective Services Executive Services and Complaint Management.

4 As of June 2016 the number of Juvenile Justice Centres in NSW reduced from seven to six.

### 1.4.3 Official Visitor conferences

The Official Visitors induction conferences for CSNSW and JJNSW Official Visitors were held in September and October 2015 respectively. The CSNSW Official Visitors Induction Conference was held at the Brush Farm Academy. The JJNSW Official Visitors Conference was held at the Department of Justice on Spring Street, Sydney, and all JJNSW Official Visitors attended.

## 1.5 Conferences and collaborations

In the interests of understanding best practice and key issues, ICS staff attended a number of conferences and visits to other jurisdictions in the 2015-16 financial year.

| Conferences 2015-16  |                |
|--|----------------|
| Conference   | Date           |
| Corrective Services Official Visitor Induction Conference  | September 2015 |
| National Drug Trends Conference, Sydney  | October 2015   |
| International Corrections and Prison Association Conference, Managing Risk in Contemporary Correctional Systems, Melbourne                 | October 2015   |
| Juvenile Justice Official Visitors Conference, Sydney  | October 2015   |
| NSW Bureau of Crime Statistics and Research, Applied Research in Crime and Justice Conference, Brisbane                                    | February 2016  |
| Workshop and collaboration between Mental Health Official Visitors and Corrective Services Official Visitors, NSW Mental Health Commission | May 2016       |
| Independent Prison Visitor Scheme Annual Conference, Melbourne   | May 2016       |
| CSNSW Expert Roundtable Discussion on Radicalisation   | June 2016      |

## 1.6 Relationships with other agencies

### 1.6.1 Liaison and communication with primary stakeholders

The ICS maintains communication and liaison with CSNSW and JJNSW, including regular meetings with the Commissioner of Corrective Services (NSW) and the Executive Director, JJNSW. Inspector of Custodial Services staff also liaise closely with appropriate officers in CSNSW and JJNSW when planning and implementing an inspection. Information sharing occurs between the ICS and stakeholder agencies to support the research and inspection activities of the office.

Under a Memorandum of Understanding signed in December 2014, the office has ongoing communication and consultation with the NSW Ombudsman regarding complaint trends and areas of interest for inspection.

The ICS also communicates and consults with JH&FMHN and the NSW Auditor General on audit and inspection themes and outcomes.

The ICS maintains a close relationship with similar inspection agencies in other states. These include the Inspector of Custodial Services in Western Australia, the Office of Correctional Service Review in Victoria, the Office of the Chief Inspector of Queensland Corrective Services and the Youth Detention Inspectorate in Queensland. These relationships foster the exchange of information, expertise and knowledge in relation to custodial services inspections.

| Other jurisdiction visits 2015-16   |                        |
|---|------------------------|
| Centre  | Date                   |
| Inspector of Custodial Services, WA   | July 2015              |
| Department of Correctional Services, WA                                     | July 2015              |
| Kimberley Regional Prison, Corrective Services, WA                          | July 2015              |
| Brisbane Youth Detention Centre, Queensland Corrective Services, QLD        | February 2016          |
| Corrections Victoria, VIC   | May 2016               |
| Hopkins Correctional Centre, Corrections Victoria, VIC                      | May 2016               |
| Barwon Correctional Centre, Corrections Victoria, VIC                       | May 2016               |
| Woodford Correctional Centre, Queensland Corrective Services, QLD           | May 2016,<br>June 2016 |
| HMP Wandsworth, London, England   | June 2016              |
| National Offender Management Services, Ministry of Justice, London, England | June 2016              |
| Chief Inspector, Queensland   | June 2016              |

### 1.6.2 Response to recommendations

In the inspection reports tabled during this reporting period, the Inspector made 99 recommendations: 68 of these were to CSNSW, 17 to JJNSW and 14 to JH&FMHN. Some of the recommendations related to more than one agency. The response of each agency to these recommendations has been published on the ICS website.

The breakdown of recommendations made in ICS reports published in the 2014-15 financial year that were supported by each agency is as follows:

| Agency  | Total recs | Supported | Partially supported | Unsupported |
|---------|------------|-----------|---------------------|-------------|
| CSNSW   | 68         | 59%       | 31%                 | 10%         |
| JH&FMHN | 14         | 100%      | -                   | -           |
| JJNSW   | 17         | 59%       | 29%                 | 12%         |

A monitoring and reporting framework is being developed to monitor the progress made by each agency in relation to recommendations supported or partially supported.

## 1.7 Key observations from this period

The current Inspector commenced on 11 April 2016 following the retirement of Dr John Paget on 31 October 2015. During his time as Inspector, Dr Paget made a significant contribution to improving the correctional and juvenile justice system in NSW.

In May 2015 Dr Paget tabled a report to Parliament on the impacts of overcrowding in correctional centres, entitled *Full House: The growth of the inmate population in NSW*.

Rising inmate numbers continues to be the biggest challenge in the adult correctional system. The risks identified by Dr Paget in the *Full House* report remain as inmate numbers continue to grow. Between July 2015 and June 2016, the NSW adult prison population grew by 6.5 per cent, reaching 12,550 in June this year<sup>6</sup> with significant growth in the remand population.<sup>7</sup> The female remand population has grown at the fastest rate during that time increasing from 285<sup>8</sup> in June 2015 to 396<sup>9</sup> by June 2016.

The increase in numbers creates system pressures ranging from the length of time prisoners spend in court cells before being transferred to correctional centres, to the demands on services and programmes to prepare prisoners for release back to the community.

Capacity issues, the age of infrastructure, time out of cells and pressure on services such as health and welfare, impacts on both staff and inmates. These issues require ongoing monitoring, and will remain a focus of the ICS.

Official Visitors play a crucial role in not only helping to resolve individual complaints in adult correctional centres and Juvenile Justice Centres but also in raising matters at a systemic level that inform inspections and thematic reviews.

In response to the over-representation of Aboriginal and Torres Strait Islander youth in Juvenile Justice Centres an additional six Aboriginal Official Visitor positions have been created to ensure each Juvenile Justice Centre in New South Wales has an Aboriginal Official Visitor; to assist in meeting the needs of Aboriginal and Torres Strait Islander young people. Official Visitors provide a vital oversight mechanism and importantly, this will mean Juvenile Justice Centres will be visited by an independent Official Visitor on a weekly basis.

Finally, it is clear that there is a need for the establishment of a robust monitoring programme to oversee the implementation of recommendations that result from inspections and reviews. The monitoring programme to be implemented during the 2016-2017 year will include regular site visits and has been informed by consultation with other Inspectorates in Australia and the Inspector of Prisons for England and Wales.

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6 New South Wales Custody Statistics, Quarterly Update June 2016, NSW Bureau of Crime Statistics and Research

7 BOCSAR reported in their most recent quarterly update that the number of inmates on remand in the previous 12 months had risen by 14.8%. Ibid.

8 <http://www.bocsar.nsw.gov.au/Documents/custody/Q22015Custodyreport.pdf>

9 [http://www.bocsar.nsw.gov.au/Documents/custody/NSW\\_Custody\\_Statistics\\_Jun2016.pdf](http://www.bocsar.nsw.gov.au/Documents/custody/NSW_Custody_Statistics_Jun2016.pdf)

## 1.8 Resources and statutory obligations

An independent and appropriately resourced inspectorate plays a critical role in providing oversight and accountability in the adult correctional and juvenile justice systems.

During the 2015-16 financial year, the budget allocation of the office was underspent. A portion of the underspend has been carried forward into the 2016-17 financial year to facilitate additional inspections, assisting the office to meet its statutory obligation to inspect all Juvenile Justice Centres every three years, and adult centres every five years.

In addition, there are 48 court cell complexes across NSW which are included in the Inspector's remit. While the court cells are much smaller than correctional centres, they are widely dispersed, which makes the logistics of inspecting them all challenging.

The Inspector has not made any recommendations for legislative change during the reporting period.

## 2 Legislation and corporate governance

### 2.1 Government Information (Public Access) Act 2009

The *Government Information (Public Access) Act 2009* (GIPA Act) came into force on 1 July 2010 and replaced the *Freedom of Information Act 1989*.

Section 20 of the GIPA Act requires all agencies to produce an agency information guide, outlining the structure and function of the agency, along with the kinds of information it holds and the manner in which the public may access it.

The ICS publishes all reports and responses to reports on its website. Inspection standards and manuals detailing the work of the office are also publicly available online.

Section 125 of the GIPA Act requires agencies to report on their obligations under the GIPA Act on an annual basis. As required by this section, the ICS advises that there were no applications made for access to information under the GIPA Act during the current reporting period.

### 2.2 Reporting

In the 2014–15 financial year, a range of key performance indicators were established to assess the work of the ICS. The results for the 2015–16 financial year as well as the previous reporting period are set out below.

| Key performance indicator                | 2014-15 | 2015-16 |
|--|---------|---------|
| Number of liaison visits conducted       | 25      | 26      |
| Number of centres inspected              | 9       | 11      |
| Number of reports tabled                 | 2       | 2       |
| % of recommendations accepted (adult)    | 55%     | 59%     |
| % of recommendations accepted (juvenile) | 56%     | 58%     |

