



**THE LAW SOCIETY  
OF SOUTH AUSTRALIA**

THE VOICE OF THE SOUTH AUSTRALIAN LEGAL PROFESSION

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20 June 2011

C62, 75.11  
RB;rp

Mr Anthony Beasley  
Secretary to the  
Select Committee on the Department of Correctional Services  
Legislative Council  
Parliament of South Australia  
GPO Box 572  
ADELAIDE SA 5001

Dear Mr Beasley

**Select Committee of the Legislative Council - Bullying in Prisons**

The Society's Human Rights Committee has considered the terms of reference of the Select Committee on the Department of Correctional Services. We realise that submissions to the Committee were to have been received by the Committee by 22 April 2011 and apologise for the tardiness of this response. Thank you for agreeing to ask the Members of the Select Committee whether they would agree to accept this late submission.

There has been criticism over many years that the *Correctional Services Act 1982* contains very little about the actual responsibilities and duties of prison officers. In the Royal Commission Into Deaths In Custody, Commissioner Johnston QC endorsed the Clarkson Royal Commission Into Prisons in South Australia, when he said:

*"the inquiry conducted by Commissioner Clarkson was detailed and searching, ....His general recommendations led to very great changes in the Correctional Services Department; the Prisons Act was repealed and the 1982 Correctional Services Act was enacted;....the Clarkson Commission was a very important catalyst for important changes in the law relating to penal institutions in South Australia. The recommendation by Commissioner Clarkson that the Act or the regulations thereunder should establish and set out the responsibilities of prison officers in relation to care of prisoners has not been, but should be, put into effect".*

Prison officers must comply with the Department of Correctional Services Employee Conduct Policy. There are over twenty specific rules in the policy. It is clear that overall the policy requires prison officers to act reasonably towards, and not bully, prisoners or other employees.

Prison officers must also comply with the Public Sector Code of Conduct which requires them to avoid discrimination and bullying.

These rules are internal employment rules which require management to initiate any action for a breach of the rules. It is submitted that such rules should be incorporated into the *Correctional Services Act 1982* or its regulations. As such these provisions would have the authority of Parliament, and would be more visible and accessible to both prisoners and the community as a whole. Furthermore there should be a specific right of action by prisoners in case of abuse or indeed by prison officers in relation to a case of bullying by individual officers towards each other.

In our view, a breach of the regulations should attract a specific penalty under the Act as well as a potential action for damages.

Prisons are powerful and coercive institutions of the State and prisoners are relatively powerless in these institutions. There are therefore strong reasons of public policy, why prison officers should be held accountable, both in respect of their abuse to prisoners and in respect of their abuse to other officers, in a public way.

Yours sincerely



Ralph Bönig  
**PRESIDENT**