

DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL
MEMORANDUM



TO: [REDACTED]
[REDACTED]
[REDACTED]

DATE: 21 June 2016

PURPOSE

To brief you on the investigation undertaken in relation to allegations against Mr [REDACTED] Custodial Correctional Officer (CCO), Maryborough Correctional Centre (MCC).

BACKGROUND

On 28 May 2016 Prisoner [REDACTED] was in the [REDACTED] at the Maryborough Correctional Centre (MCC) Medical Unit. Prisoner [REDACTED] alleged that at dinner time he was pushed by a staff member for no reason.

On 30 May 2016 the CCTV footage of the incident and the officer's reports that were submitted on 28 May 2016 by Mr [REDACTED] and [REDACTED], CCO, were obtained and reviewed by [REDACTED], Deputy General Manager (DGM). [REDACTED] noted that:

- The staff member involved in allegedly pushing Prisoner [REDACTED] was identified as [REDACTED].
- A preliminary review of the CCTV footage appeared to support Prisoner [REDACTED] claim that he was pushed by [REDACTED].
- That the officers' reports recorded that Prisoner [REDACTED] had threatened staff.
- The Corrective Services Investigation Unit (CSIU) was advised of the incident by [REDACTED], Correctional Manager ([REDACTED]). The CSIU recorded in IOMS that its investigation into the matter had been completed and no further action was being taken by the CSIU. An update on the incident was provided to the CSIU after preliminary enquiries were conducted at the MCC (Incident [REDACTED] and as a result the CSIU re-opened its investigation and this is currently on-going.

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[REDACTED]

Date: [REDACTED] / 06 / 2016

- The matter was referred to [REDACTED], General Manager, Custodial Operations. [REDACTED] referred the matter to the Ethical Standards Unit (ESU).

ESU assessed the material and distilled two allegations regarding the alleged conduct of Mr [REDACTED]. ESU assessed that if proven, the allegations would amount to Corrupt Conduct as defined in the *Crime and Corruption Act 2001* and the matter remains subject to audit by the Crime and Corruption Commission.

The matter was not assessed as a public interest disclosure under the *Public Interest Disclosure Act 2010*.

ISSUES

An investigation was subsequently undertaken into the allegations, which has now been completed and detailed in the attached report.

The investigation included reviewing the CCTV footage of the incident, reviewing the IOMS records (including the reports submitted by staff), and interviewing three witnesses (1 x prisoner and 2 x staff) and [REDACTED].

The *Corrective Services Act 2006* authorises staff to use reasonable force to protect themselves against the behaviour of prisoners when they cannot be protected in another way. The “*palm strike*” is an approved use of force technique within the policy guidelines.

Allegation 1 was that on 28 May 2016 [REDACTED] used force that was not reasonably necessary on Prisoner [REDACTED]. The investigation identified that the evidence given by Prisoner [REDACTED] during his interview presented as genuine and was consistent with the CCTV footage of the incident. Prisoner [REDACTED] did not appear to take any opportunities to exaggerate or deny his own behaviour that contributed to the incident.

Despite [REDACTED] and [REDACTED] asserting that the force used on Prisoner [REDACTED] was necessary in the circumstances as Prisoner [REDACTED] had verbally threatened [REDACTED], the CCTV footage of the incident identified that [REDACTED] had a number of opportunities to leave the cell and close the cell door, and therefore remove any opportunity by Prisoner [REDACTED] to carry out the alleged threat, which Prisoner [REDACTED] denied making

[REDACTED] outlining in his Officer’s Report that Prisoner [REDACTED] was “*verbally aggressive*” and that he “*started to get heated*” and that he ([REDACTED]) felt threatened by Prisoner [REDACTED] was a means to justify his actions of using force when there was no necessity for him to do so.

The CCTV footage of the incident supported that [REDACTED] was the aggressor and that he escalated the incident. Prisoner [REDACTED] while engaged in a conversation

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with [REDACTED], showed no physical aggression and he was compliant with directions given to him.

The investigation found the allegation that on 28 May 2016 [REDACTED], Custodial Correctional Officer, Maryborough Correctional Centre, used force that was not reasonably necessary on Prisoner [REDACTED], on the evidence adduced and on the balance of probabilities, **is capable of being substantiated**.

Allegation 2 was that on 28 May 2016 [REDACTED] provided an inaccurate/incomplete Officer's Report by failing to include all relevant particulars of the incident being reported. The investigation identified that the information provided by [REDACTED] in his Officer's Report was significantly deficient when compared to the CCTV footage of the incident, and that he was attempting to diminish his failure in complying with the provisions of COPD – Use of Force.

[REDACTED] when interviewed gave an explanation for not including all the relevant information in his report as *"unfortunately some things you do put in and there are some things you miss out ..."*.

The investigation found the allegation that on 28 May 2016 Mr [REDACTED], Custodial Corrections Officer, Maryborough Correctional Centre, provided an inaccurate/incomplete Officer's Report by failing to include all relevant particulars of the incident being reported, **is capable of being substantiated**.

RECOMMENDATION

It is recommended that you consider the attached report and determine on the evidence adduced and on the balance of probabilities whether to:

- 1. Initiate disciplinary action against [REDACTED], CCO, with respect to the two allegations;

YES / NO (Please circle); OR

- 2. Issue [REDACTED] with a formal warning with regard to his use of force decision making and incident reporting.

YES / **NO** (Please circle); OR

- 3. Determine an alternative path. YES / **NO** (Please circle and specify if YES).

<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Not Approved
[REDACTED]	
Date: 23-6-16	

Briefing Officer: [REDACTED]
 Telephone: [REDACTED]
 Date: 21 / 06 / 2016