

*In the matter of the  
Complaints Commissioner Law (2006 Revision)*

**Re: “Nowak and the Cayman Islands  
Prison Service.” – An Investigation by the  
Office of the Complaints Commissioner  
made on 19 October 2011.**

**SPECIAL REPORT to the Legislative  
Assembly**

**Prepared by the Office of the Complaints  
Commissioner**

**Date: 11 October 2013**

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## **Ministry of Home and Community Affairs**

Failure to Comply with Recommendations within a Reasonable Time

File number 12408. Recommendations made on 19 October 2011.

Prepared and published under the authority of the Office of the Complaints Commissioner

11 October 2013

## ***1. Foreword***

This Special Report has been prepared pursuant to the Commissioner's powers under S.18(3) – (5) of the 2006 Law and in accordance with such powers Her Excellency the Governor will be provided with a copy of this report in advance of its presentation to the Legislative Assembly under S.18(4) of the Law.

## ***2. Executive summary and Background***

On 18 August 2011 the Office of the Complaints Commissioner began an investigation into a complaint against the Cayman Islands Prison Service and the Portfolio of Internal and External Affairs. The allegations made were that the complainant and others had been subjected to a strip-search which she believed to have been in retaliation for a letter she had written the day before; and, connected to same, in regard to an inappropriate comment made by a prison officer.

On 19 October 2011, the Complaints Commissioner wrote separate letters regarding the decision (including findings and recommendations) to, amongst others, Mr. Franz Manderson, then Deputy Governor designate, copied to Mr. Eric Bush, then Acting Chief Officer for the Portfolio; and to Mr. Dwight Scott, the then Director of Prisons. In light of the investigation findings 3 OCC Recommendations were made. Recommendation 1 was complied with in October 2011. Recommendation 2 was complied with in December 2011.

Recommendation 3 was as follows:

*The Cayman Islands Prison Service should install phone jamming equipment in both Northward and Fairbanks Prison. Since realistically it is virtually impossible to stop cell-phone and BlackBerry use in prisons, this is a sensible, viable and, in the long-term, cheaper alternative which would avoid regular and repeated use of strip-searching as a means of retrieval (which could not only put both the Prison and the Cayman Islands*

*Government in violation of Human Rights protections, but also leave both entities open to potential lawsuits). The minor inconvenience it would cause to staff wanting to use cell-phones and BlackBerrys for personal use would be far outweighed by the aforementioned benefits. Phone jamming equipment is currently used in prisons in many countries, including France, India, Ireland, Italy, Mexico, New Zealand and Sweden; and is currently being considered for use in prisons in Germany and the U.K.*

The date for compliance with this recommendation was 19 April 2012.

For the purposes of this Special Report, only Recommendation 3 is relevant.

Although initially the Portfolio took issue with some aspects of the OCC decision, none of these concerned Recommendation 3.

Once the Recommendations were made, the OCC began monitoring them for compliance. As of the time of writing this Report, whilst the OCC accepts both the financial constraints on the Ministry, and that some efforts towards compliance with regard to the outstanding Recommendation have been made by the Ministry, this falls far short of substantial compliance. This is particularly serious bearing in mind the following:

1. The importance of the issue itself, including the serious security breaches that have been highlighted in the national media for several months prior to the date of this Report (e.g., “*OCC Wants To Jam Prison Cell Phones*”, Cayman Compass, 27 October 2011; “*Prison Cell Photos Pop Up On Social Media*”, Cayman Compass 30 April 2013; “*Rapist Was One Of The Prisoners With Access To Facebook*”, Cayman News Service, 1 October 2013). I have been advised by the Deputy Governor (e-mail of 3 April 2012 refers – see section 4 of this Report) that there is cell phone jamming equipment at HMP Northward. Clearly, events have demonstrated that this is inadequate (there is evidence, for example, that the Body Orifice Security Scanner [BOSS] Chair was, as of July 2013, not correctly

calibrated, and may not have been used by all prisoners coming through Reception) and in any event there is no such equipment at HMP Fairbanks;

2. Concerns raised in H.M Inspector of Prisons report dated September 2012, based on inspections conducted in July 2012;
3. The extensive correspondence between the OCC and the Chief Officer of the Ministry concerned (see section 4 of this Report); and
4. The great age of the matter – nearly 18 months since the deadline for compliance and almost exactly **2 years** since the Recommendation was made.

Having monitored this recommendation for compliance since 19 October 2011, with no substantial compliance and no immediate signs of resolution, this Special Report has been prepared pursuant to S.18 of the Complaints Commissioner Law (2006 Revision), in particular S.18(3) which states:

“...Where the Commissioner has made a recommendation under subsection (1) and within the time specified or a reasonable time thereafter, he is of the opinion that no adequate action has been taken to remedy the injustice, he shall lay before the Legislative Assembly a Special Report on the case”.

### ***3. Recommendations and Monitoring.***

At the conclusion of the Investigation 3 recommendations were made.

Recommendation one was complied with in October 2011.

Recommendation 2 was complied with in December 2011.

Recommendation 3 was as follows:

*The Cayman Islands Prison Service should install phone jamming equipment in both Northward and Fairbanks Prison. Since realistically it is virtually impossible to stop cell-*

*phone and BlackBerry use in prisons, this is a sensible, viable and, in the long-term, cheaper alternative which would avoid regular and repeated use of strip-searching as a means of retrieval (which could not only put both the Prison and the Cayman Islands Government in violation of Human Rights protections, but also leave both entities open to potential lawsuits). The minor inconvenience it would cause to staff wanting to use cell-phones and BlackBerrys for personal use would be far outweighed by the aforementioned benefits. Phone jamming equipment is currently used in prisons in many countries, including France, India, Ireland, Italy, Mexico, New Zealand and Sweden; and is currently being considered for use in prisons in Germany and the U.K.*

The date for compliance with this recommendation was 19 April 2012.

#### ***4. Ministry efforts at compliance with Recommendation 3.***

The following correspondence highlights e-mails and letters only, and does not include the many phone calls that took place during the relevant period.

On 28 October 2011 Mr. Manderson e-mailed the Complaints Commissioner, the relevant extract is as follows:

*“The Deputy Governor (then Mr. Donovan Ebanks) has asked me to write to you concerning your letter to me of 19th October and the subsequent stories in the Cayman Compass.....on 27 October 2011 – “OCC wants to Jam Prison cell phones”. He is very concerned about some aspects of your investigation and its findings. (H)e would be grateful if you would confirm or comment on the matters below:-*

*3. Can you please explain how a verbatim quotation from your recommendation in respect of cell jamming equipment contained in your letter to me of 19th October 2011 appeared in the Compass article of 27th October 2011 even though you stated in the same letter to me that the recommendation concerning the cell jamming equipment “has not been conveyed to the Complainant”?*

4. *Can you please confirm publicly that your investigation did not seek to ascertain whether cell jamming equipment was being utilised at Northward Prison before recommending that it should be installed?.....*

*I wish to make it clear that we are not questioning your authority to investigate but trying to understand how you arrived at your findings so that our public response is fair and factual.*

On 16 November 2011, the Complaints Commissioner replied by e-mail, the relevant extract of which is as follows:

*Dear Mr. Manderson,*

*Thank you for your e-mail of 28 October 2011. As you are aware (e-mail of 8 November refers), due to both vacation and illness I have been unable to reply until today.....*

*I now turn to the specific matters on which my comment is sought: .....*

3. *That quote came from me. At the time letters were sent both to you and the complainant (as well as the letter to the Director of Prisons, which also mentions this recommendation; and the letter to the Chair of the Human Rights Committee, which does not), this recommendation had not been conveyed to the complainant and is not in her letter. On further consideration, I took the view that this recommendation only - not any recommendations peculiar to the complainant - was a significant matter of wider public interest and therefore merited disclosure to the press, namely the Caymanian Compass. It was not disclosed in any other print, visual or audio media. Please note that this recommendation was in part made to protect the Cayman Islands Government in general, and the Portfolio in particular, from potential lawsuits should this type of incident reoccur.*

4. *This is correct. However, please note that I was specifically concerned with Fairbanks prison in this regard. Is it being asserted by you on behalf of the Portfolio and the Cayman Islands Prison Service that cellphone-jamming equipment is currently in operation at BOTH HMP Northward and HMP Fairbanks? Please confirm.*

Between the 23 December 2011 and 10 February 2012 there was further correspondence between the former Deputy Governor, the former Governor and the OCC, none of which concerns the outstanding Recommendation.

On 3 April 2012, the Complaints Commissioner e-mailed both Mr. Manderson and Mr. Bush as follows:

*Dear Deputy Governor and Chief Officer Bush,*

*I trust you are both well.*

*As you may recall, in the letter dated 19 October 2011 with regard to Miss Nowak's complaint, one of the recommendations made by this office was that the Cayman Islands Prison Service should install phone jamming equipment in both Northward and Fairbanks prisons. This is a reminder to you that the deadline for compliance with this recommendation is **19 April 2012**.*

*If you are not able to comply with this by the stated deadline, please advise before this date, with a proposed alternative timeline.*

By e-mail of the same date, the Deputy Governor replied:

*Dear Ms. Williams,*

*Thank you for your email below.*

*Kindly note that cell jamming equipment has been installed at HM Northward Prison for many years. I will ask Mr. Bush to provide an update on the installation of cell jamming equipment at HM Fairbanks.*

Chief Officer Eric Bush subsequently e-mailed the Complaints Commissioner on this subject. On 4 April 2012 he wrote:

*Good morning Ms. Williams,*

*Since the recommendation was made in October 2011, we have been in contact with the company that has provided jamming equipment to us in the past. As the equipment used for the past 2-3 years has only covered the High Risk Unit, we have asked for a recommendation on a complete system that will make all cellular devices useless within the entire HMP Northward compound. Talks continue in this regard.*

*Regarding HMP Fairbanks, it is our intention to move this facility to the vacant lot adjacent to the men's compound. It is expected that this will be done during the 2012/13 FY. As a result we have not progressed with implementing any cellular jamming system at the current facility.*

*I would also add that we be mindful that this recommendation was made during this financial [year], thus was not achievable within existing budget allocations. We have included a sum for this purpose in our 2012/13 Capital Budget request. However we still wait to see what funds will be available.*

And on 13 April he wrote:

*Good morning Ms. Williams,*

*I would only add that there are technical issues which have to be addressed with the cellular providers before additional technology can be deployed to “blanket” the Northward compound with cell jamming equipment.*

*I'd be happy to discuss further over the phone or in person, if you wish.*

On 9 May 2012, the Commissioner e-mailed Chief Officer Bush as follows:

*Dear Mr. Bush,*

*I hope you are well.*

*Further to your e-mails below, please assist me as to the following:*

*Re: your e-mail of 4 April*

1. *“Talks continue in this regard” – please advise what stage these talks have reached; whether there is now a timetable in place to install the complete system; and when this will be done.*

2. *Regarding relocating HMP Fairbanks next to HMP Northward, how realistic is it that this will be done during the 2012/13 FY? Is it also anticipated that the phone jamming equipment for this prison will be installed during the same financial year?*

3. *Further to 2 above, “However we still wait to see what funds will be available”. Do you know what the position is in this regard?*

*Re: your e-mail of 13 April*

4. *What “technical issues” are these? Are they being addressed at the moment?*

On 10 May, further to a telephone conversation of the same date, the Complaints Commissioner wrote to the Chief Officer as follows:

*Dear Eric,*

*It was good to speak to you this afternoon.*

*Further to our conversation and earlier e-mails (see below), thank you for agreeing to notify me as soon as you receive the funding in your budget in order to:*

1. *Get the telecommunications equipment moved from the mast near HMP Northward*

2. *Relocate HMP Fairbanks next to Northward prison*

3. *Install phone jamming equipment on the joint prison compound in such a way that both the male and female prison will be covered.*

*(I am aware from our discussions that 2 and 3 are interchangeable).*

*As well as notifying me of receipt of funds, please also provide a timetable for implementation of points 1-3 above.*

By an e-mail dated 11 June 2012, the Commissioner asked for a progress report. On 15 June 2012, Chief Officer Bush replied:

*Dear Ms. Williams,*

*I have now been advised on our allocation for 2012/13. Unfortunately the entire \$3M requested for capital improvements to the Prison service has been cut. We are now in the process of revising our plans. Once this is complete, I would be happy to update you on our course of action, in this regard.*

On 3 December 2012, the Commissioner e-mailed Chief Officer Bush:

*Dear Chief Officer Bush*

*I hope you are well.*

*I refer to your e-mail below. It has now been nearly 6 months since your e-mail and I have not heard back from you on the outstanding recommendation – which was made over 13 months ago.*

*Please update me as promised in your e-mail as to your plans for compliance re: the above recommendation.*

On 4 December, Chief Officer Bush replied:

*Good morning Ms. Williams,*

*Thank you for your email. As you may have heard, we are making positive changes in the prison service. Unfortunately, the limited funding allocated to us this year, and indeed proposed for next financial year, will not allow for the upgrades to our telecoms jamming equipment. That said, we are making positive strides to improve the overall security at both correctional facilities.*

*I should be happy to discuss further if you wish, perhaps over a catch up coffee before the Christmas break.*

On 6 February 2013, the Commissioner received a copy of the “Report on an announced inspection of HM Cayman Islands Prison Service, 22–27 July 2012” conducted by HM Chief Inspector of Prisons and dated September 2012.

On 27 February 2013, the Commissioner wrote to the Chief Officer:

*Dear Mr. Bush*

*I hope you are well. Apologies for not replying earlier to your December 4 e-mail. I will write to you under separate cover with regard to the recent Prisons Report, but in relation to the above I am anxious to progress this, as this recommendation is still outstanding and there have been no counter-proposals which would go towards substantial government compliance with same.*

*Happy to meet, either formally or over coffee as you suggested, next week. Please advise what day you would be free to do so.*

On 30 April 2013 the Commissioner again wrote to Chief Officer Bush:

*Dear Eric,*

*You may recall that when we met for lunch last month, you advised me in regard to the above that someone would be coming to Cayman imminently to advise on prison security generally and on this point in particular – with a view either to compliance or to a workable and mutually acceptable alternative - and that you expected to be able to advise me on his/her views on this within 3 weeks.*

*As it is now 5 weeks since our lunch, please advise as to the current position. As you know, this recommendation has been outstanding since **19 October 2011**.*

On 2 April 2013 the Commissioner was sent 2 Security Reports commissioned by the Portfolio, both dated March 2013, which dealt both with overall security at HMP Northward, and specifically perimeter security at the same prison.

On 3 May 2013, the Commissioner wrote to the Chief Officer:

*Dear Eric,*

*Thank you for the security report you sent me. However, I cannot see where it would effectively deal with prisoner use / possession of cellphones – a matter that has yet again come to national attention in the last few days -*

*<http://www.compasscayman.com/caycompass/2013/04/30/Prison-cell-photos-pop-up-on-social-media>*

*I received the e-mails below from Andy Best of Cellsense. I do not know either him or Dr. Levy (see e-mail attached), but the company appears to be bona fide.*

*Certainly Dr. Levy is – see this: <http://www.ucl.ac.uk/secret/secret-student-seminars-12/illicit-activity-prisons>*

*Because I am fully aware of the resourcing difficulties across government including your Portfolio I took the trouble to enquire as to cost. For what it would achieve (and prevent in terms of potential lawsuits against the Portfolio) this is extremely cost effective.*

*It is now over **18 months** since this recommendation was made, and currently has the unfortunate distinction of being one of the oldest matters still outstanding at the OCC.*

*Please let me know your thoughts.*

On receiving no reply to this e-mail, on 14 May the Commissioner sent Chief Officer Bush a follow-up e-mail asking for a response by 12 noon on 17 May.

On 31 May the Commissioner wrote to the Deputy Governor:

*Dear Franz*

*It was good to speak to you this morning and I look forward to our next scheduled meeting.*

*As discussed, please see the attached “cellsense” e-mail.*

*This recommendation has now been outstanding for 19 months. In light of this, all options are now being considered.*

The Deputy Governor replied on 3 June, stating he would investigate further.

On 6 June (forwarded to the Deputy Governor on the same date), the Complaints Commissioner e-mailed the Chief Officer:

*Dear Eric*

*It was good to speak to you last night.*

*Further to our discussion last night I have rechecked my emails and can confirm that I have not received any emails from your DCO or anyone else concerning this matter.*

*It is the practice of the OCC to monitor recommendations for 12 months.*

*Thereafter, if there has been no, or no substantial, compliance, further steps can be taken which are both serious and potentially reputationally damaging to the government entity concerned.*

*I have delayed taking this action thus far because I wanted to work with your entity to try to bring this matter to a satisfactory conclusion – hence my email on Cellsense, although, as you know, the OCC is not obliged to come up with a solution for a government entity to remedy its failing.*

*However, this matter is now **20 months old**.*

*Please be advised that if I do not receive a reply by **Friday 28 June** indicating either substantial compliance with Recommendation 3 or an alternative that is acceptable to the OCC, as Commissioner I will proceed to exercise my powers under S.18 of the Complaints Commissioner Law 2006.*

On 19 June, Chief Officer Bush e-mailed a substantive reply to the above:

*Dear Nicola,*

*I hope you are well. The new Prison Director, Neil Lavis, is now on island and will be in office starting on Monday of next week. As promised, I would like to set up a meeting with you, him and me to discuss the issues identified by your office and any other matters you would like to address regarding the Prison. I would also like to provide a considered response on the outstanding matter below based on consultation with the three of us to ensure we have consensus for the official record by the extended deadline of Friday next week.*

*I do apologize again for the time it has taken to complete this matter, however now that Neil is here, we can progress and complete this matter.*

*Grateful if you can let me know if you are available on Monday for an hour so I can set a time for us to meet.*

On 28 June 2013, the Commissioner and an OCC Investigator met with Mr. Lavis. On the same date, the Complaints Commissioner was handed a letter signed by Chief Officer Bush (now in the Ministry of Home Affairs), headed "Re: Recommendation to install Cellular Phone Jamming Equipment in HMP Northward and Fairbanks". Under the section "Financial Implications", it stated "....*Mr. Stephen Fradley, the Overseas Territories Prison Reform Coordinator, just advised us yesterday that the National Offender Management Service, under the direction of the Ministry of Justice, has been conducting a comprehensive review of the capability and effectiveness of a number of these technological solutions (both for jamming and interception) currently on the market. The impetus for this review, which has come about after many years of evaluations, has been the increased use of cellular phones within prisons.....the findings and recommendations of which are due to be reported in September 2013.*

*We have been informed that we will be able to have access to the findings of these projects in order to inform policy decisions in this area."*

On 2 July 2013, the Commissioner e-mailed the Chief Officer:

*Dear Chief Officer*

*It was good to meet with you (albeit briefly) your DCO, the new Director of Prisons on Friday. Thank you for your letter of the same date (see attached).*

*During the meeting, the request was made for the OCC to not issue a Special Report until the 1st October 2013 as the Ministry of Justice and the Home Office (both UK) are expected to issue a report on the most effective technology to jam and/or intercept cellphones sometime in September 2013.*

*On balance, I am just persuaded to do this provided that the following conditions are met:*

- 1. That, as agreed at the meeting, Mr. Lavis would let me have his interim proposals for dealing with this issue in writing by Friday 5th July;*
- 2. That your DCO lets me have a written note of what was discussed and agreed at the meeting by 5pm today. I was in fact assured I would receive this last Friday afternoon.*
- 3. That I can meet with Mr. Stephen Fradley, the OT Prison Reform Co-ordinator, when he comes to Cayman in July.*

***Please note that your Ministry has the unfortunate - and no doubt embarrassing - distinction of having the oldest outstanding recommendation not complied with at the OCC. Whilst I am aware there can be slippage with any report, October 19 2013 will mark 2 years since the recommendation was made.***

***As Commissioner, I would expect there to be a clear, signposted, plan of action by the Ministry as to what technology they would use and when it will be implemented as soon as possible after October 1st.***

***Please be clearly advised, therefore, that under no circumstances will this matter be allowed to go past the 19th October 2013 without resolution, either as described above or with the issue of a Special Report.*** (Commissioner emphasis).

*I await action on points 1-3 above as a condition of my agreement to the proposed course of action as discussed in Friday's meeting.*

On 3 July, Neil Lavis, Director of Prisons, sent the Commissioner a letter of the same date headed: “Re: Interim Measures To Address Cell Phone Usage”.

On 1 October, the Commissioner wrote to Neil Lavis and the Deputy Chief Officer Kathryn Dinspel-Powell:

*Dear Deputy Chief Officer and Mr. Lavis,*

*Further to our meeting on 28 June and to the e-mail below, the 30 September deadline has passed. Where are we on this?*

On 4 October, the Commissioner e-mailed Chief Officer Eric Bush:

*Dear Chief Officer Bush,*

*As a consequence of serious and protracted non-compliance, please see attached letter and draft Special Report. If I do not receive a reply to this letter by **4pm on 11 October 2013** confirming that Recommendation 3 has been substantially complied with, I will proceed forthwith pursuant to my powers as stated in S.18(3) and S.18(4) above.*

*Under S.18 (5) of the 2006 Law, the Commissioner shall not, in any report under subsection (3), comment adversely on any person unless he has given that person an opportunity to be heard.*

*This letter is your opportunity to be heard under S.18 (5). Your comments will be included in the Report under Section 5..... (see response below).*

*I have copied this letter to the Deputy Governor, your DCO, and the Director of Prisons as persons named in this Report.*

## ***5. Ministry reply pursuant to S.18 (5) of the Complaints Commissioner Law 2006***

On 10 October 2013, the Complaints Commissioner received the following e-mail from Mr. Stephen Fradley, Overseas Territories Prison Reform Coordinator:

*Dear Ms Williams,*

*You will recall that when we met in July I informed you that the UK's National Offender Management Service (NOMS) was finalising its research into mobile phone blocking and detection technology. Their report was due to be completed by the end of September and I undertook to forward to the Cayman Islands Government as much detail as NOMS would permit being released, bearing in mind the sensitivity of commercial in confidence issues.*

*Having asked NOMS for an update recently, I was informed that they are still evaluating all the equipment which commercial companies had provided and they now accept that they were, in their own words, "overly ambitious in our estimates to you when we met". They are now aiming to have their research completed by the end of this year, after which they will let contracts for prisons to procure various technologies from the list of approved suppliers. Their strong recommendation to me is that anyone contemplating purchasing equipment should wait until then, as any company which is then on their "approved contractor list" has technology which has been proven to work after exhaustive trials and is therefore fit for purpose. I know from previous personal experience that many companies make claims concerning the effectiveness of various technologies or items of equipment but the long term independent verification is often difficult to obtain.*

*NOMS have also informed me that they remain willing to offer technical assistance as required and within reason, bearing in mind they have no experience of Cayman's prison facilities and there are significant issues such as the close proximity of the cellphone tower at HMP Northward.*

*I will continue to liaise with NOMS and the Ministry of Home Affairs in Cayman with a view to identifying, and hopefully assisting in the procurement of, some form of technology, whether detecting or blocking, to further reduce illicit cellphone use within Cayman's prisons. I am also more confident than previously that the introduction of updated policies for searching and better management oversight of these issues is less likely to lead to a repeat of the circumstances which led to the original complaint concerning the prison.*

*I hope this brief update is of use. If you do have any questions or if I can assist in any way please let me know.*

On 11 October, Chief Officer Bush replied as follows:

*Dear Ms. Williams,*

*Thank you for the opportunity to respond to your report. As we have discussed from the start of this protracted process, Her Majesty's Prison Service and indeed the Ministry of Home Affairs agrees with your recommendations, two of the three having been completed. We all would like to see additional cellular jamming equipment deployed in our prisons. We are in agreement with this.*

*However this is the "what" we want to accomplish." I think the "why" is also clear to all and agreed. "How" we are to accomplish this is another matter. As is clearly stated in your report, we have not had the funding provided to purchase additional cellular jamming equipment that would satisfy your recommendation. The Prison Service currently has some cellular jamming equipment and has used it for a number of years prior to this recommendation.*

*.....There are a number of security related matters that would take priority over additional cellular jamming equipment, should an abundance of funding be allocated to the prison service.*

*However, despite our funding limitations, the Ministry of Home Affairs has been in constant contact with the FCO Prison Advisor, through the Governor's Office, and further in discussions with the National Offender Management Service (NOMS) in the UK around this very issue. The FCO Prison Advisor has been in contact with*

*you to confirm this and update you on his progress and discussions with NOMS. The discussions with the FCO Prison Advisor have also been on-going since the Ministry received your recommendation some two years ago.*

*In conclusion, whilst I understand your desire to issue a special report to the LA on this matter, the reasons for Her Majesties Prisons Service not being able to satisfy this only outstanding recommendation is that sufficient funding has not been allocated to the Prison Service, for this purpose, since the recommendation was made.*

*Kind regards,*

*Eric Bush, JP*

*Chief Officer*

*Ministry of Home Affairs*

## ***6. Conclusion***

**The response from Mr. Fradley above details yet further delay with regards to complying with the outstanding Recommendation, into 2014 at the earliest.**

As stated in the Executive Summary, on 18 August 2011 the Office of the Complaints Commissioner began an investigation into a complaint against the Cayman Islands Prison Service and the Portfolio of Internal and External Affairs. The allegations made were that the complainant and others had been subjected to a strip-search which she believed to have been in retaliation for a letter she had written the day before; and, connected to same, in regard to an inappropriate comment made by a prison officer.

On 19 October 2011 I as Complaints Commissioner wrote separate letters regarding my decision (including findings and recommendations) to, amongst others, Mr. Franz Manderson, then Deputy Governor designate, copied to Mr. Eric Bush, then Acting Chief Officer for the Portfolio; and to Mr. Dwight Scott, the then Director of Prisons. In light of the investigation findings 3 OCC Recommendations were

made. Recommendation 1 was complied with in October 2011. Recommendation 2 was complied with in December 2011.

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Once the Recommendations were made, the OCC began monitoring them for compliance. As of the time of writing this Report, whilst the OCC accepts both the financial constraints on the Ministry, and that some efforts towards compliance have been made by the Ministry with regard to the outstanding Recommendation, this falls far short of substantial compliance. This is particularly serious bearing in mind the following:

1. The importance of the issue itself, including the serious security breaches that have been highlighted in the national media for several months prior to the date of this Report (e.g., “*OCC Wants To Jam Prison Cell Phones*”, Cayman Compass, 27 October 2011; “*Prison Cell Photos Pop Up On Social Media*”, Cayman Compass 30 April 2013; “*Rapist Was One Of The Prisoners With Access To Facebook*”, Cayman News Service, 1 October 2013). I have been advised by the Deputy Governor (e-mail of 3 April 2012 refers – see section 4 of this Report) that there is cell phone jamming equipment at HMP Northward. Clearly, events have demonstrated that this is inadequate (there is evidence, for example, that the Body Orifice Security Scanner [BOSS] Chair was, as of July 2013, not correctly calibrated, and may not have been used by all prisoners coming through Reception) and in any event there is no such equipment at HMP Fairbanks;
2. Concerns raised in H.M Inspector of Prisons report dated September 2012, based on inspections conducted in July 2012;
3. The extensive correspondence between the OCC and the Chief Officer of the Ministry concerned (see section 4 of this Report); and
4. The great age of the matter – nearly 18 months since the deadline for compliance and almost exactly **2 years** since the Recommendation was made.

Having monitored this recommendation for compliance since 19 October 2011, with no substantial compliance and no immediate signs of resolution, this Special Report has been prepared pursuant to S.18 of the Complaints Commissioner Law (2006 Revision), in particular S.18(3) which states:

“...Where the Commissioner has made a recommendation under subsection (1) and within the time specified or a reasonable time thereafter, he is of the opinion that no adequate action has been taken to remedy the injustice, he shall lay before the Legislative Assembly a special report on the case”.

**Nicola Williams, Complaints Commissioner**  
**Office of the Complaints Commissioner**  
**11 October 2013**