



Simon Corbell MLA

ATTORNEY GENERAL
MINISTER FOR POLICE AND EMERGENCY SERVICES

MEMBER FOR MOLONGLO

Mr Roger Clarke
Chair
Australian Privacy Foundation
GPO Box 1196
SYDNEY NSW 2001

Dear Mr Clarke

Thank you for your recent email and letter of 5 July 2007, dealing with the application of a Radio Frequency Identification (RFID) system in the Alexander Maconochie Centre (AMC).

I will provide some general information on the RFID system to be included within the AMC and endeavour to respond to the specific issues you have raised.

International and Domestic Precedents

RFID technology is already widely deployed by correctional jurisdictions in Australia in tracking and monitoring offenders in the community. This often involves equipment located in an offender's home. Professor Sohail Inayatullah foreshadowed the expansion of the application of this technology in May 2002 in a paper *Scanning for Correctional Futures: A Report* prepared for the Office of the Correctional Services Commissioner, Victorian Department of Justice.

RFID technology is also deployed in prisons in European countries with well-established human rights traditions. This includes Sweden and the Netherlands. It is also now being employed in Canadian correctional establishments. Canada is, of course, also a human rights jurisdiction.

In Sweden and the Netherlands there are no human rights obstacles to the deployment of RFID systems in prisons. In addition, the European Organisation for the Protection of Prisoners' Rights, in January 2006, advised that the RFID surveillance was not seen as a violation of prisoners' rights.

This is consistent with the opinions expressed by both the Human Rights Commissioner and the Ombudsman in the AMC Human Rights Working Group (HRWG) which have been consulted on RFID in the AMC since 2005.

The employment of RFID systems in a custodial setting is currently under examination in other Australian and New Zealand correctional jurisdictions.

ACT LEGISLATIVE ASSEMBLY

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Deployment of RFID technology in the Alexander Maconochie Centre.

In his 1991 report into the British prison disturbances of April 1990, Lord Justice Woolf defined the proper character of prisons in a democratic society bound by international law. He identified three requirements which must be met if the prison system is to be stable. They are security, control and justice.

The “campus-style” open plan of the Alexander Maconochie Centre (AMC) is one of the Centre’s design features in response to the spirit of the *Human Rights Act 2004*. This particular feature of the AMC design makes an RFID prisoner tracking system attractive. Such a system, complementing planned security systems, would contribute to the realisation of the AMC Operating Philosophy and Operating Model and Lord Justice Woolf’s requirements.

In the AMC, considerable attention is being given to the human rights (justice) aspects of the Centre. These include the need to:

- keep vulnerable and damaged people alive;
- separate remand and sentenced prisoners;
- separate male and female prisoners;
- keep predators away from their potential victims;
- ensure protectees are, in fact, protected;
- permit increased unescorted prisoner movement, and
- take particular care of any infants in the centre.

The major security and control concerns are to:

- provide a staff duress alarm that accurately identifies the location of a staff member;
- minimise the risk of suicide and self harm;
- routinely account for all prisoners and staff;
- prevent assaults on prisoners and staff;
- identify gangs and networks;
- minimise the introduction of drugs, weapons and other contraband in to the Centre;
- prevent escapes;
- account for all persons in the centre in the event of a fire or riot;
- audit staff execution of duty of care responsibilities;
- effectively respond to an incident;
- enhance the integrity of investigations into prison incidents, and
- identify the location of staff in difficulties to ensure a prompt and effective response.

These concerns are made all the more challenging by the AMC’s open campus-style design over a 14 hectare footprint, with a range of buildings, including central facilities, cell blocks, cottages and recreation areas. A further factor has been the minimisation in the AMC design of visually harsh, internal fencing to keep various cohorts apart so these separations will be achieved by other means.

With an RFID system, AMC staff would wear a belt-mounted personal safety device that transmits a radio signal to a central control point (It should be noted that staff already wear personal duress equipment with location functions). When a button on the RFID device is

depressed an alarm is triggered. If a staff device is horizontal for longer than a pre-specified time, an alarm is automatically triggered.

Prisoners will wear an electronic bracelet, rather than a belt-mounted device. The alarm will be triggered if a prisoner:

- approaches a location e.g. the female area of the AMC or a cottage in which an infant is housed; or
- approaches the secure perimeter e.g. to escape or collect contraband; or
- tampers with the bracelet; or
- approaches a protectee or potential victim.

The system, which has a memory capability, also allows a prisoner, in the event of an alleged theft of his or her property, to request the identification of anyone who may have been in or near his/her accommodation. RFID devices are able to identify an individual and the location of that individual, with varying degrees of accuracy, some to within two metres indoors and eight metres outdoors.

The AMC project office is also exploring the potential for including vital signs monitoring in prisoners' bracelets, which would be a major step forward in prisoner safety in custody.

With respect to the specific issues you have raised, I offer the following:

Human Degradation

Your observation is not supported by the deployment of RFID systems in jurisdictions with well-developed human rights traditions. It is also not supported by the advice of the Human Rights Commissioner or the Commonwealth Ombudsman. The views of the European Organisation for the Protection of Prisoners' Rights that RFID surveillance was not seen as a violation of prisoners' rights would also appear to challenge your view.

As pointed out in previous paragraphs, the technology is not, as you assert, "bleeding edge" nor "pie in the sky" but is already deployed operationally in Europe, it is also widely operational in North America and in Asia.

Motivation

This has been addressed in previous paragraphs. Please note that you are incorrect in asserting that the AMC is a "relatively low security" facility. It will house prisoners from high to low security. This is made quite clear on the Functional Brief which is available on the AMC Project website.

Communication and Consultation

The AMC project office is engaged with approximately 80 stakeholder individuals and groups and has conducted over 140 briefings and meetings on the AMC on all aspects of the AMC design and operation. The AMC Communication Plan is also available on the AMC Project website.

As early as 1996 an ACT Corrective Services Discussion Paper entitled *The possible establishment of a correctional facility in the Australian Capital Territory*, noted 'That there

is no reason why inmates could not also be required to carry electronic sensors or devices that enable their movement between set zones to be monitored.'

Human Rights

The Human Rights Commissioner and the Ombudsman's office have been briefed on RFID and its potential use in the AMC and have advised that the system is compatible with Human Rights legislation.

Staff representative bodies

On 1 December 2006 the Commonwealth Public Sector Union (CPSU), which represents ACT Corrective Services staff, advised the ACT Prison Project office that it was fully supportive of the introduction of an RFID system into the AMC.

Community Groups

RFID has been discussed with community groups, including the Civil Liberties Australia, the Community Coalition on Corrections and the Aboriginal Justice Advisory Committee. Aboriginal representation has also been included in the AMC Design Working Group which has examined an RFID system for the AMC.

Legislative Assembly

The issue of RFID has been the subject of Questions on Notice and discussions in the ACT Legislative Assembly on several occasions.

Media

The media has shown interest in RFID. On 8 June 2006, an article on RFID in the AMC was published on the IT news website ZD net at <http://www.ZDnet.com>.

On 9 August 2006, two officers from the AMC Project office gave a presentation to the RFID conference in Sydney.

An article in The Australian followed the presentation on 15 August 2006.

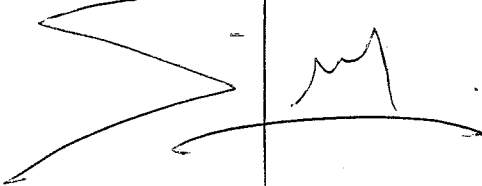
The use of electronic bracelets in the AMC was noted in the Sunday Telegraph on 22 October 2006.

Tender

Your observation that "the main body for the Request for Tender for the \$800,000 contract to provide the RFID scheme has not been made public" is not correct. An RFID system for the AMC was included within the specifications for the main construction works for the AMC which was awarded to Bovis Lend Lease in 2006. As with other major contracts in the ACT, this contract was made available on the ACT Treasury (Procurement Solutions) website. While this element within the contract was subsequently withdrawn to facilitate further examination of the specific needs of the AMC, it is still proposed that an RFID system, similar to those deployed in European and Canadian human rights jurisdictions, will be further considered as a part of the AMC.

Should you require any further information on the policy dimensions or the operational deployment of an RFID system in the AMC, please contact the Director of the AMC Project office, John Paget, on 6207 0375.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon Corbell', written over a vertical line that serves as a separator between the signature and the typed name below.

Simon Corbell MLA
Attorney General

27.8.07