

Date: 26 April 2023

To: Mr Kevin Corcoran PSM  
Commissioner of Corrective Services  
Office of the Commissioner  
Corrective Services NSW  
GPO Box 31  
Sydney NSW 2001

[ExecutiveServices@justice.nsw.gov.au](mailto:ExecutiveServices@justice.nsw.gov.au)

Re: **Daniel Duggan**

Dear Commissioner

The International Commission of Jurists (Australian Section) has been made aware of the situation of Daniel Duggan, the subject of an extradition request from the United States of America to the Australian Government.

The situation of Mr Duggan's custodial conditions, as described to us, is as follows.

**a) Summary of custodial classifications and remand**

1. On 21 October 2022, Mr Duggan was arrested by the Australian Federal Police under a provisional arrest warrant issued pursuant to s 12(1) of the *Extradition Act 1988* (Cth) at the request of the United States.

2. Mr Duggan's subsequent remand has been made pursuant to the following classifications/designations/orders:

- An A2 security classification and/or a segregated custody direction;
- A protected non-association ('PRNA') order; and
- An interim extreme high risk restricted inmate ('EHRR') security designation.

(the 'custodial classifications')

3. After Mr Duggan was arrested, he was placed in remand at Bathurst Correctional Centre, NSW. Mr Duggan instructs that he

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was immediately classified as A2 (maximum) security and placed in segregated custody.

4. Mr Duggan's solicitors tried to obtain reasons and documentation on the A2 classification, but this was ultimately not provided by Corrective Services NSW.

5. On 28 October 2022, the Commissioner of Corrective Services NSW (the '**Commissioner**') approved an EHRR designation for Mr Duggan with strict restrictions requiring, amongst other things, phone contact approvals, visits approval, and English language requirements.

6. On 1 November 2022, Mr Duggan was transferred to the Metropolitan Remand & Reception Centre ('**MRRC**'), in Silverwater, NSW. Upon his arrival, Mr Duggan was interviewed by the Correctional Intelligence Group and informed that he would ultimately be transferred to Goulburn Correctional Centre.

7. On 2 November 2022, a PRNA order was authorised/approved on the direction of Adam Wilkinson, Governor of MRRC.

8. On 1 December 2022, the High Security Inmate Management Committee ('**HSIMC**'), a subcommittee of the Serious Offenders Review Council ('**SORC**'), considered Mr Duggan's matter and made recommendations to the Commissioner.

9. On 16 December 2022, the Commissioner revoked Mr Duggan's EHRR designation. This was conveyed to Mr Duggan by way of letter dated 20 December 2022 which did not contain reasons. Mr Duggan did not receive the letter until 17 January 2023.

10. Mr Duggan instructed that there was no substantial change in his treatment and management after the revocation of the EHRR designation.

11. On 9 March 2023, Mr Duggan was moved to Lithgow Correction Centre, NSW, without his solicitors being informed he would be moved there. Mr Duggan's conditions remain essentially the same.

#### **b) Summary of Solicitors' [NGM] efforts to obtain reasons for Mr Duggan's custodial classifications**

12. Between 2 November 2022 and 24 January 2023, NGM has made several written requests to the MRRC, the Commissioner and HSIMC for information regarding Mr Duggan's custodial classifications. To date, the MRRC, the Commissioner and HSIMC have refused to provide this material.

13. NGM has filed three Government Information Public Access ('**GIPA**') Right to Information applications to the Department of Justice ('**DCJ**') seeking all materials related to Mr Duggan's designation and redesignation:

a. On 11 November 2022, NGM submitted the first GIPA application seeking all orders and reasons for Mr Duggan's custodial classifications. In response, DCJ provided a bundle of materials that only partly satisfied the application. In a Supplementary Decision, the DCJ refused to provide the reasons for the EHRR designation on the basis that there is a conclusive presumption of an overriding public

interest against the disclosure of the information. NGM filed a GIPA Internal Review application on 18 January 2023 regarding the Department's partial satisfaction of NGM's application. On 10 February 2023, the Internal Review affirmed the Supplementary decision.

b. On 1 December 2022, NGM submitted the second GIPA application seeking all materials related to Mr Duggan's custodial classification, including correspondence with Australian and US state departments. On 22 February 2023, NGM received an email from DCJ seeking further details, including the names of the relevant Corrective Services' NSW officers involved, in order to conduct the appropriate searches. NGM provided available the information, and DCJ confirmed it would conduct further searches.

c. On 24 January 2023, NGM submitted the third GIPA application seeking all materials from SORC related to their recommendation to the Commissioner. The DCJ has not responded to this application.

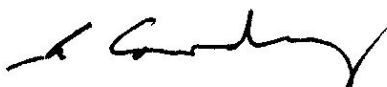
14. Without access to this material, Mr Duggan's right to review his classification is being violated and his ability to properly prepare the bringing of a bail application under the *Extradition Act* is being denied.

The ICJ(AS) is concerned that an Australian citizen with wife and children in and ties to Australia, subject to an extradition request that does not involve allegations of any offences that would render him dangerous to the Australian community, should be awarded such a high security classification and treated in the way described.

We consider that the reasons for such action should be made plain, at least to his solicitors, and we request that action be taken to allow that to occur.

We are also concerned that his right to a fair hearing of his bail application may be compromised by the actions taken.

Yours faithfully



Nicholas Cowdery AO KC  
President  
[ncowdery@optusnet.com.au](mailto:ncowdery@optusnet.com.au)