

## Chapter 6

# Managing Prisons and Prisoners

*'Security' refers to the obligation of the Prison Service to prevent prisoners escaping. 'Control' deals with the obligation of the Prison Service to prevent prisoners being disruptive. 'Justice' refers to the obligations of the Prison Service to treat prisoners with humanity and fairness and to prepare them for their return to the community in a way which makes it less likely that they will reoffend.*<sup>1</sup>

The way prisoners are managed is the foundation of good correctional practice. The proper classification and placement of a prisoner during their period of incarceration, the progressive case management of individual prisoners, and prisoners' participation in relevant programs all represent key avenues for prisoner rehabilitation.

According to the Victorian *Correctional Policy and Management Standards*, prisoner management effectively:

- (a) *controls and supervises prisoners in a humane and just manner while maximising the protection of the community;*
- (b) *provides for the personal safety of staff and prisoners through a prison environment that aims to protect the physical and emotional wellbeing of individuals;*
- (c) *encourages prisoners to develop responsibility for their actions and to develop ethical values that reinforce law-abiding and non-violent participation in the community; and*
- (d) *provides prisoners with opportunities for rehabilitation.*<sup>2</sup>

Prisoner management commences at an offender's point of entry into the Victorian prison system and extends through to the prisoner's completion of their sentence and exit from the system.

This section of the report examines a number of key aspects of prisoner management and makes recommendations for changes aimed at improving the effectiveness of correctional programs, and promoting cohesiveness across the correctional services system.

### 6.1 INDIVIDUALISED PRISONER MANAGEMENT

In the Victorian prison system, the process of 'case management' includes assessing a prisoner's needs; identifying the appropriate prisoner treatment goals and the steps required to achieve these goals; providing links, advocacy and liaison with external services; and monitoring and reviewing treatment.

Ideally, the case management process should provide a framework for development and implementation of risk/needs-based interventions and their ongoing coordination for each prisoner.

#### 6.1.1 Individual Management Plans

Individual Management Plans (IMPs) are an integral part of the day-to-day management of prisoners in Victoria. They are the blueprint that articulates the needs, goals and rehabilitation strategies for each prisoner while they are in custody.

<sup>1</sup> HM Chief Inspector of Prisons "Suicide is Everyone's Concern". A Thematic Review by Her Majesty's Chief Inspector of Prisons.

<sup>2</sup> OCSC 1995, op. cit., p.17; and OCSC 1996, op. Cit., p.17.

Individual Management Plans were introduced into Victorian prisons, in conjunction with the principles of unit management, in the early 1990s. These have been established and used with varying degrees of success, depending on the extent of staff training and understanding of their purpose at the time of implementation.

The creation of an Individual Management Plan at the commencement of a prison term must reflect the prisoner's special needs and characteristics. Therefore, prison operators have the important responsibility of ensuring all information pertaining to a prisoner's individual needs and progress in achieving rehabilitation goals during the prison term is systematically recorded on Individual Management Plan files. The Service Delivery Outcomes (SDOs) for each prison operator under the contractual agreements require all Individual Management Plans to be kept up to date at all times. This too is subject to periodic monitoring by the Commissioner's Office.

Private prison operators cater for individual case management planning by using the format contained within Individual Management Plans. The Auditor-General's Report<sup>3</sup> assessed the quality of Individual Management Plans and identified a number of shortcomings. The report indicated that the structure of the IMP files does not lend itself to efficient access to information, and that the structure and content requirement of Individual Management Plans should be reviewed. The report also noted some examples of initiatives in this area; for example, Fulham Correctional Centre has introduced a checklist to be completed by the manager of each section of the prison as a control measure for ensuring the prisoner's IMP adequately addresses all identified rehabilitation needs.

The Panel noted that although the Commissioner's Office has established Minimum Standards for Transfer for IMP files, there are continuing concerns regarding instances where information critical to effective management of prisoners has not been recorded. This is discussed further in section 6.2.

### **6.1.2 Case Management**

Each prison provider is responsible for the individual case management of prisoners received at the respective prison locations. This means each prisoner should have an individualised plan that is based on assessed need and subject to regular progress reviews and amendment as required. Accordingly, the prison provider must establish mechanisms to ensure all relevant information is collected and communicated to custodial and program staff so the prisoner is appropriately managed.

Evidence is mixed as to the effectiveness of case management systems in Victorian prisons, even though Individual Management Plans are maintained, to varying degrees, for every prisoner in the system. At all prison locations, these files are maintained by a nominated case officer (a member of the custodial staff). As the Victorian Correctional Services Task Force noted, case management has never been clearly defined or standardised within prisons. To this extent, *'case management is a general facet of prisoner management which providers are expected to undertake within their institutions. Accordingly providers approach case management from various perspectives.'*<sup>4</sup>

Over many years, there have been a number of efforts to find a suitable model of case management for the Victorian corrections system. To date, no effective or standardised model has yet been identified that meets the approval of all prison providers. In recent times, CORE has been developing a model involving multi-disciplinary teams within prisons to conduct case conferencing for all prisoners. This model relies on professionally trained staff to deliver case management to all prisoners, and this has resource implications.

### **6.1.3 Differentiated Case Management**

The premise that all prisoners are not the same and do not make the same demands on prison resources and programs is accepted intuitively, but it is not broadly applied in practice across the

<sup>3</sup> Auditor-General of Victoria, op. cit.

<sup>4</sup> *ibid.*, p. 129.

corrections system. Differentiated Case Management (DCM) is a means of approaching the management of prisoners with different support requirements.

The Office of the Correctional Services Commissioner (OCSC) is currently developing a model framework for Differentiated Case Management that identifies the greatest needs of prisoners and targets interventions or programs accordingly.<sup>5</sup>

The DCM model is predicated on the development of validated risk/needs assessment instruments as a basis for effective intervention with offenders at risk of reoffending. As *'all prisoners are not the same, their risks and needs do not make the same demands ... and they require different levels of intervention'*,<sup>6</sup> the Differentiated Case Management approach targets more intensive programs to high-risk offenders, while providing minimal intervention to those prisoners of lower risk. The model is based on an assessment of the criminogenic needs of prisoners. This assessment emphasises the importance of distinguishing between factors that contribute directly to offending behaviour (such as drug dependency and poor cognitive skills), and those with a less direct relationship (such as depression and low self-esteem). This approach also assumes that *"different levels of intervention require different standards of quality control and evaluation."*<sup>7</sup>

DCM can be used with any type of case assignment system as long as it permits early and valid case screening of prisoners. It has the potential to maximise use of limited resources by targeting high-risk offenders for the most intensive interventions.

Accordingly, there are two major goals of Differentiated Case Management:

- timely and just disposition of all cases consistent with their risks and needs; and
- improved use of resources by tailoring interventions to risks and needs.

Implementation of the DCM approach requires the development of multiple pathways and programs to address prisoners' needs. Programs are differentiated on the basis of assessed risk and need. The model currently proposed provides three program 'tracks': Level 1, Basic (low risk/low needs); Level 2, Intermediate (moderate risk/moderate needs); and Level 3, Intensive (high risk/high needs).

Under this approach, each prisoner is screened shortly after reception so their priority needs can be identified, and they can be assigned to the appropriate program pathway or track according to defined criteria. Continuous monitoring of case progress within each track is necessary to ensure adherence to the specific requirements and timeframes of the particular program pathway. It also means the prisoner can be reassigned to a different level if changes in levels of risks or needs are identified.

However, full implementation of the DCM model requires the development of valid and reliable 'risk of reoffending and criminogenic needs' assessment tools (general and specific) for case differentiation. It also requires the development of two streams of sex offender programs (intensive and moderate), with emphasis on the latter being a stand-alone program that can be delivered in a number of prisons. Similarly, two streams of violent offender programs (intensive and moderate); two streams of substance abuse programs (intensive and moderate) with an emphasis on the moderate level program being implemented in a number of prisons; and an intensive, evidence-based literacy and numeracy program, responsive to the learning styles of offenders, will be required.

The Panel supports this approach to case management. It notes that the program's implementation is supported by a number of 'best practice' principles, including the principle of evaluation (that programs must have mechanisms in place to evaluate their impact on reoffending rates).

<sup>5</sup> Dunne, Felicity 2000, *A Framework for Reducing Reoffending: Differentiated Case Management in Victorian Corrections*.

<sup>6</sup> *ibid.*

<sup>7</sup> *ibid.*

### **Recommendation**

1. The Panel recommends that the OCSC model of Differentiated Case Management be introduced across all levels of prison operation.

## **6.2 RECORDS AND INFORMATION TRANSFER**

Previous reports have identified problems with transferring information between prisons, and with the comprehensiveness and accuracy of prisoner records. This still appears to be the case.

The Panel was provided with examples of a number of recent instances where critical information about prisoners was not recorded on files. It was informed that prisoners sometimes arrive at prisons without IMP files (for up to a week)<sup>8</sup> and, even when the file arrives, there may be virtually no case notes. IMP files are often 'useless' and important information may be missing, such as incident reports. The Panel heard of examples of prisoners having a Suicidal Alert on their Prisoner Information Management System<sup>9</sup> Prisoner Profile but no file notes or incident report could be found, despite the efforts of prison staff in contacting the case officer at the previous prison. In other cases, contradictory information was contained within the prisoner's IMP.

The matter of medical records that are not included in the IMP file remains problematic. The Panel was told of incidents where the medical condition of a prisoner was not conveyed to custodial staff at the new receiving prison because of confidentiality. It appears that the transfer of health information across the system is still a problem, although it is not as great since the common medical record was introduced.

The Panel considers that ongoing staff training and support is critical in addressing these issues. This opinion is supported by a recent review of the level of correctional staff awareness regarding the information available on the Prisoner Information Management System (PIMS) that may be useful in identifying and reducing the risk of suicide/self-harm in individual prisoners.<sup>10</sup> The review did not identify any formal PIMS refresher training programs in Victorian prisons, and found that only a few prisons provided formal PIMS training for new recruits.

### **6.2.1 Improving Records Management Through the Application of Information Technology**

It has been suggested that technological innovations in corrections should provide real gains for prison operators in relation to prisoner management; however, these gains have not yet been realised. There is considerable scope for information technology to address the limitations of the electronic system currently in use (that is, PIMS), and to promote access to additional computer technology, but the costs and time involved in developing new technological applications for the corrections system appear to be considerable.

The Department of Justice has previously identified the importance of streamlining how information is currently managed in Victoria's criminal justice system. This led to the Criminal Justice Enhancement Program (CJEP) being established in early 1999. The CJEP's vision is to develop a 'shared criminal justice environment' in which agencies cooperate in exchanging key information for which they have common use. CJEP will enable authorised users to access and update information continuously throughout the lifecycle of a person's exposure to the criminal justice system.

The Panel has been advised that the draft CJEP systems requirements study has now been distributed to stakeholders. However, concerns persist across the Department in relation to the ability of the proposed system to deliver the level of functionality required, and within the timeframe proposed (commencing May 2001 to be fully operational by October 2001). In the meantime, it is worrying

<sup>8</sup> Office of Correctional Service Commissioner 2000, *Development of PIMS Awareness Training Package, Progress Report*.

<sup>9</sup> The Prisoner Information Management System, or PIMS, is the central computer-based system that records operational information relating to all prisoners.

<sup>10</sup> Office of Correctional Service Commissioner 2000, *op.cit.*

that important developmental work on existing systems, including the establishment of an electronic prisoner IMP file, continues to be deferred.

The Correctional Services Commissioner's recent review of PIMS awareness<sup>11</sup> has highlighted a number of issues that will need to be addressed prior to implementing the CJEP system. These include the variable access to PIMS across the prison system, the lack of sufficient computer terminals to facilitate PIMS access, and the lack of computer skills reported by many staff. The review found many staff do not access the range of important information available in the current PIMS system but, even when they do, the information is often not kept up to date and/or not effectively utilised. Since there is substantial variation between prisons in the degree to which PIMS information is used, this compounds problems associated with prisoner movement leading to frequent instances of discrepancies between what is entered on the PIMS system and what is contained in a prisoner's IMP file.

It has been suggested that PIMS would be more effective if the IMP file was electronically stored within PIMS. There is a great deal of inefficiency in information gathering, with triplication in Reception, Unit and Social History assessments. *'Within two days, the prisoner can be asked the same question three times.'*

#### **Recommendation**

2. The Panel recommends that the OCSC undertake an early review of the structure and content of prisoners' Individual Management Plan files for the purpose of establishing a revised file management framework. This should include consideration of electronically automating the system of recording, maintaining and transferring prisoner records.

### **6.3 WORK, EDUCATION AND PROGRAMS**

#### **6.3.1 The 'Structured Day'**

According to the *Correctional Policy and Minimum Standards* established by the Office of the Correctional Services Commissioner, all prison operators must provide a schedule that addresses the wide range of needs within the prisoner population.

The prison operator must develop a schedule for mainstream prisoners which:

- provides regimes to meet the needs of the diverse prisoner groups at the prison;
- provides all prisoners with a minimum of 12 hours out of their cells each day;
- provides work for sentenced prisoners for at least six hours per day, 10 days per fortnight;
- enables all prisoners to participate in a minimum of four hours accredited education/training each week;
- maximises involvement in programs and activities; and
- accounts for the needs of specific prisoner groups.

For prisoners placed in a management or security unit pending investigation into an alleged offence, the prison operator must provide a regime that includes a minimum of eight hours out of cell time and four hours of meaningful work and/or program activity per day. For those prisoners placed in a management or security unit to serve a period of loss of privileges, the prison operator must provide a regime that includes a minimum of two hours out of cell time per day.

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<sup>11</sup> *ibid.*

Since 1996, the number of hours per day that each prisoner spends out of their cell has averaged a little under 12. These hours reflect each prison's distinctive function and prisoner profile. For example, out-of-cell hours for 1998–99 ranged widely from 8.8 hours at the Melbourne Assessment Prison to 16 hours at the Langi Kal Kal Prison.

For some time, the Metropolitan Women's Correctional Centre (MWCC) has been locking down accommodation units so custodial staff can be relocated to other duties. This reduces the amount of time women prisoners are out of their cells and prevents attendance at organised programs or the delivery of those programs within units.

As the Panel was informed, however, it is vital that the hours prisoners spend out of cells are used effectively. It appears to be less important that prisoners spend a specified number of hours in, say, work or education, than that the activities of prisoners are targeted as closely as possible to their individual needs as identified in Individual Management Plans. A widely understood principle in the delivery of any human service is that 'one size does not fit all'. Achieving work-related skills may be less important for some prisoners than participating in programs that address basic literacy and numeracy deficiencies.

Across providers, the majority of the prisoners' current activities are devoted to allocated work, vocational training, full-time education or other programs. Time out of the working day for participation in approved programs, including education, is regulated through local review and assessment committees.

Approved programs aim to prepare prisoners to re-enter society. These programs may:

- provide education and training, develop integration skills (living skills, social skills), and prepare prisoners for release (the Custodial Community Permit Program (CCPP) and Community Integration Program (CIP)); and
- seek to reduce offending behaviour; for example, drug and alcohol education and treatment programs, sex offender treatment or management programs, violent offender treatment programs and one-on-one counselling sessions.

The importance of prisoners being involved in a structured program of daily activities is clearly essential for the individual prisoner's wellbeing and the prison's management. Nevertheless, the Panel believes there should be a greater focus on linking daily activities with the identified needs of prisoners (possibly as outlined in the differentiated case management model referred to in section 6.1.3) rather than ensuring prisoners spend a specified number of hours in particular activities. As such, the Panel sees merit in the OCSC amending the current schedules to enable a more flexible mix of work, education and other structured programs.

### **6.3.2 Prison Industries**

The rationale behind prison industries is to provide prisoners with the opportunities to develop the necessary skills for effective participation in the labour market after their release.

The Victorian *Correctional Policy and Management Standards* requires all prison operators to provide prison industries so all sentenced prisoners can work. Prisoners are permitted to work in service areas such as the kitchen, laundry, cleaning, maintenance, and gardening. Prison operators are required to enable prisoners to participate in accredited training associated with their work. It is also stipulated that the nature of the work should assist prisoners to gain skills that will enhance their chances of employment on release.

As outlined in section 2.11.1, work provided in prison industries must also be consistent with the annual Corrections Industry Training Plan.

The Panel received a submission from the Victorian Prison Industries Advisory Committee that stated:

*Prison Industries give many prisoners work like experience and training, irrespective of the type of industry involved. They also contribute significantly to the good working order of the prisons<sup>12</sup>*

That Committee took the view:

*that whilst prison and service industries play an important role in all prisons, there are a number of negative and often unavoidable pressures. These include a lack of knowledge of the skills and training of incoming prisoners, the difficulties inherent in sharing what information there is across all prisons, the impediments to coherent work experience caused by extensive prisoner movement, the length of many sentences, the interruptions caused by visits, health and legal requirements and the sometimes competing demands of other programs and education.<sup>13</sup>*

### Industry Participation Rates of Prisons

The Service Delivery Outcome for this area of prison operations is expressed as the number of prisoners on the last working day of the month who are employed full time (that is, more than six hours), or engaged in full-time education or programs, expressed as a percentage of the daily actual prisoners available for work/study. All private prison operators are currently meeting their Service Delivery Outcomes in this area.

The KPMG review noted a concern that the definition may be applied variably between the prisons, especially the definition of 'available to work'. However, it noted that prisons were more concerned with providing appropriate work for prisoners to undertake.<sup>14</sup>

The Panel also heard from providers regarding the difficulty in developing arrangements with appropriate industries, particularly in rural areas. Providers indicated that domestic services for the prison are a substantial component of the work experience provided.

Accredited TAFE training at the three private prison locations appears to be well coordinated within the industry sectors. This process maximises the time TAFE teachers have with individual prisoners and utilises a range of on-the-job training skills, competency-based training and personal development requirements. The Panel heard that tension still exists between the industry and education sectors at each prison due to their respective interests in maximising attendance and production outputs. Nevertheless, the Panel came across a number of examples of cooperation and communication between the two sectors that address this situation.

In the prison environment, the importance of work for prisoners should not be underestimated. It provides the structure for good order and security. Custodial staff acknowledge that it allows prisoners to be occupied constructively, while at the same time it provides opportunities for prisoners to gain qualifications. It is important that such work should be meaningful and, given the difficulties in providing appropriate work for prisoners, it may be timely for the OCSC to review the requirement that all prisoners work six hours per day. The Panel is of the view that enabling prisoners to participate in other structured programs, such as those targeted to meet their identified criminogenic needs, may be equally valuable.

### **Recommendation**

- 3.** The Panel recommends that the OCSC amend current schedules within the context of the structured day to enable a more flexible mix of work, education and other structured programs based on the needs of the prisoner, as identified in their Individual Management Plan.

<sup>12</sup> Submission from Victorian Prison Industries Advisory Committee.

<sup>13</sup> *ibid.*

<sup>14</sup> KPMG Consulting 2000, *op. cit.*, p. 48.

### 6.3.3 Education and Training

For the past 20 years, international research has demonstrated that education and training can have positive effects on rehabilitation of prisoners and recidivism rates.

The Panel noted that the education programs for prisoners focus primarily on acquiring labour-market skills that are linked as far as possible to the industry's availability at the prison. This reflects the specification for prisoner education that requires prisoners be provided with not less than an average of four student contact hours of accredited education and training per week. Moreover, it is specified that such training should provide opportunities for all prisoners to develop skills necessary for effective participation in the labour market after release.

*Access to skill development and qualifications as a New Apprentice is currently denied to prisoners in Victoria thus prohibiting participation in one of the Australian Recognition Framework's major learning pathways.<sup>15</sup>*

The *Planning Guide for Providers of Training and Further Education in Victoria 2000-2002* notes that the Corrections Industry Training Board is pursuing initiatives within the corrections industry in relation to traineeships, and that discussions are being held to identify traineeship opportunities linked to prison industries.<sup>16</sup> The Panel strongly supports such initiatives.

#### Training Provision

TAFE Institutes are funded to deliver training in public correctional facilities through their profile agreements with the State Training Board of Victoria. CORE is not a party to these agreements. In contrast, the State Training Board funds training in private prisons through contracts with the private prison managers who sub-contract delivery to TAFE Institutes.

Delivery of adult prison training is currently undertaken by seven TAFE Institutes, as indicated in table 6.3.

**Table 6.3 Education Providers**

Education Provider	Prison
University of Ballarat	Ararat Langi Kal Kal
Bendigo Regional Institute of TAFE	Bendigo Loddon Tarrengower
Central Gippsland TAFE	Won Wron
Gordon Institute of TAFE	Barwon
Goulburn Ovens Institute of TAFE	Beechworth Dhurringile
East Gippsland Institute of TAFE	Fulham
Kangan Batman Institute of TAFE <sup>17</sup>	Melbourne Assessment Prison Port Phillip MWCC

<sup>15</sup> Submission from Ray Griffiths, Director, Gippsland Institute of TAFE.

<sup>16</sup> Office of Training and Further Education 1999, *Planning Guide for Providers of Training and Further Education in Victoria 2000-2002*, p. 88.

<sup>17</sup> Kangan Batman Institute of TAFE also provides education and training at the Thomas Embling Hospital, Victoria's forensic mental health facility.

In 1999, an estimated 6,410 prisoner enrolments received an average of 92 student contact hours (SCH) per enrolment. This can be compared to 1995 when 3,534 prisoner enrolments received an average of 132 SCH hours each. The increase in prisoner numbers means each prisoner, on average, now receives less education and training than previously, and that pressure on finite training facilities, including equipment, is greatly increased. As would be expected, this situation creates additional difficulties in delivering appropriate vocational education and training at correctional campuses.

#### Assessing Performance in the Provision of Education and Training

Service Delivery Outcomes in this area are expressed in terms of the number of prisoners enrolled in, and the number having completed, relevant modules in adult basic education or accredited vocational training as a proportion of the prisoners identified as requiring such courses in their Individual Management Plans.

A number of concerns have been identified with these benchmarks. In the wider community, the trend is toward using assessments of student learning outcomes, employment outcomes and student satisfaction. None of these measures have been used in Victorian prisons, although the Panel believes there is potential to assess literacy, numeracy and problem-solving skills.

A further issue, identified by KPMG<sup>18</sup> is the hours for which prisoners are actually receiving tuition. There has been a drift toward smaller modules that can be delivered more easily within the corrections environment. The use of 'module' as a measurement does not account for this. However, it is unlikely that training providers would wish to measure the face-to-face hours of training delivered to prisoners as this would discourage the development of flexible delivery modes.

KPMG also suggests that there is a need to streamline the collection of data and reporting requirements for measuring this Service Delivery Outcome.

#### Delivery of Education and Training to Prisoners

As a group, prisoners have significantly lower educational outcomes than the wider community. Many prisoners have very low self-esteem and their past experiences of school and the education system are generally negative. More than three-quarters of Victorian prisoners have not completed secondary education. For people who have had transient lifestyles and, in the past, not conformed easily to traditions and routines, there is often a reluctance, a lack of confidence and a hesitancy to embark on education programs. This presents enormous challenges for those individuals and organisations delivering training in prisons, given the need to focus on programs that are specifically designed to avoid situations that may reinforce a failure syndrome.

A number of examples of good practice in prisoner education were highlighted to the Panel. One of these is East Gippsland Institute of TAFE's education and training programs delivered at Fulham Correctional Centre. This approach emphasises improving self-esteem and providing a hands-on approach to learning through building skill development (such as literacy and numeracy) into industry-based training.

Education and training in a prison environment is very different from education and training in the wider community. Prisoner training caters for a unique group of students whose attitudes, abilities and ethnicity are very diverse, who may be transferred between prisons with varying degrees of frequency, and whose stay in any given prison varies from a couple of months or less to 10 years or more. Moreover, the majority of prisoners do not have a strong employment record (over 60% of prisoners in Victoria were unemployed prior to their imprisonment). This also contributes to the specific difficulties of delivering meaningful vocational education and training in prisons.

Consequently, the Panel considers it very important that the Office of PETE permit greater flexibility in the delivery of training in prisons than may apply to providers of training and further education more generally. Although the Corrections Industry Training Board constitutes one valuable source of

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<sup>18</sup> KPMG Consulting, op. cit., p. 46.

advice to underpin planning, education and training in prisons needs to be more closely linked to an assessment of the educational and vocational needs of the prisoner population. Moreover, current policy should be reviewed to more clearly identify the role that education and training services are expected to play within the overall rehabilitation framework.

Currently, there is a group of prisoners within both public and private prisons who are involved in higher education mainly provided through the distance education programs of a number of Victorian universities. It has been suggested to the Panel that prisoners are, in terms of access to higher education, a very disadvantaged group. Their incarceration means there are significant limitations on their ability to undertake higher education courses except through off-campus studies. Even here, most cannot use direct online communication with the universities because of prison security requirements. Consequently, the Panel believes that prisoners as a group should be viewed as educationally disadvantaged and eligible for equity funding from the Commonwealth Government.

#### **Recommendation**

4. The Panel recommends that the Australian Vice-Chancellors Committee, in consultation with the Commonwealth Department of Education, Training and Youth Affairs, develop a consistent policy of higher education provision for adult prisoners. This could include the recognition of tertiary-enrolled adult prisoners as belonging to a category of educationally disadvantaged students, the allocation of university equity funding to provide tutor visits, and the development of standardised pathways to enhance opportunities for prisoners to access higher education.

#### Funding Issues

Prisoners do not have the level of access to the education and training they require to improve their prospects of a successful return to the community after their term of imprisonment.

The Office of Post Compulsory Education, Training and Employment (Office of PETE) reported to the Panel that, since 1994, the value of education and training in prisons has increased by 10% in real terms, while the demand for education and training has increased by 88%. This has frequently resulted in long lists of prisoners waiting for access to education and training programs. The Office pointed out that:

- funding of TAFE in prisons had not maintained pace with the demand for education and training;
- this has resulted in a diminution in the quality and range of TAFE on offer; and
- there are inequities in TAFE funding between public and private prisons.

In the case of Thomas Embling Hospital, where the bed numbers are being increased from 60 to 120, there has been no budget allocation to cover education and training for patients.

Private prisons are funded at 'industry prices' (that is, the price paid by the Office of PETE to industry for providing TAFE programs). The prices for 'corrections' education and training, which are paid to TAFE Institutes for providing education and training in public prisons, are much higher. In addition, the private prisons are required to meet all infrastructure costs.

The higher 'corrections' rate for education and training is intended to reflect the additional costs of maintaining security and operating with smaller class sizes in prisons; therefore, it should apply to both public and private prisons.

The result has been that, in 1999, the average price per SCH paid to TAFE Institutes for education and training delivered in public prisons was \$13.47 (\$11.45 training delivery plus \$2.02 infrastructure rate). In private prisons, the price per SCH of training was \$7.46 (with no infrastructure payment). Given the movement of prisoners across the system, this means, in many cases, that the same type of training can be provided to the same prisoner at quite different funding rates, or that continuity of the

education or training program may not be available on transfer between prisons. Clearly, this anomaly needs to be addressed.

In addition, the requirement for private prisons to meet all infrastructure costs has been interpreted by TAFE Institutes to mean the private providers must also supply all equipment associated with training. The TAFE Institutes see this as resulting in the private prisons being excluded from access to Commonwealth Equipment Grants that are available to support the education of prisoners located in public prisons. Again, this is inequitable.

The Panel concluded that there was an urgent need to review the funding provided for prisoner education. It is aware that the Office of PETE is currently reviewing its pricing and funding model. It understands that an outcome of the review will be to recommend an approach that is relatively transparent, recognises the diversity of the system, and is comparatively simple to implement. The Investigation Panel would support such an approach.

However, any review of pricing and funding must take account of the training provider's capacity to generate income in addition to that provided by the Government. In 1998 (the latest year for which figures are available) Victorian TAFE Institutes generated \$153 million from fee-for-service activity. There is no similar opportunity for education and training units in prisons to generate fee for service income.

It appears to the Panel that, in the case of prison training, a preferable approach is based on negotiated profile setting procedures that take account of local and regional needs, rather than relying on price alone. There should be a recognition that prison education and training units, unlike other TAFE providers, do not have the capacity to generate revenue from fee-paying sources.

Consequently, the Panel believes there is a case for separately reviewing the way prisoner education and training is funded, and a need to significantly increase the level of funding. The Panel examined a number of options, one of which was establishing a separate allocation of funding for prisoner education and training. This allocation could be linked to the profile of prisoners in each prison, and what is known of their education and training needs. Although current contracts with the private prisons require them to provide appropriate training facilities, the Panel can see no reason why the purchase price for the delivery of education and training in private prisons should be different from that paid for training delivery in public prisons (less the infrastructure cost element). Providers of education and training in private prisons should also have access to equipment grants. As individual prisoners are likely to be the recipients of education and training programs delivered in both private and public prisons in the course of their sentence, such differences in payment regimes are inequitable.

The Panel understands that the Victorian Government's Drugs Policy, Crime Prevention and Corrections Cabinet Sub-Committee is considering changes to the way education and training are provided in prisons. These changes include:

- a substantial increase in the per capita funding of the education and training of prisoners in private prisons;
- an allocation to Thomas Embling Hospital for education and training programs; and
- an additional per capita payment to fund provision of post-release education and training of up to 600 hours for prisoners on their release from prison.

The Panel strongly supports all three of these proposals.

### **Recommendations**

5. The Panel recommends that the Department of Education, Employment and Training and the Department of Justice:
  - (a) jointly support, through the budgetary process, increased funding of the education and training of prisoners in both public and private prisons; and
  - (b) strongly pursue the proposals before the Drugs Policy, Crime Prevention and Corrections Cabinet Sub-Committee with a view to introduction of the proposed reforms by 2001.
6. The Panel recommends that the Department of Education, Employment and Training ensure, in future, that the price paid for the delivery of corrections education and training does not discriminate between public and private prisons.

### Educational Needs of Female Prisoners

The Panel also received advice that, for women in particular, less emphasis should be placed on vocational training and more on self-esteem, life skills and/or release preparation. It was suggested that a more appropriate focus for female prisoners was education in life skills, self-management skills and in independent living (such as budgeting, gaining access to health professionals, how to use community facilities, nutrition, childcare and housing). It is important that this type of education and training should take place throughout a woman's sentence.

Research also suggests that, for many women prisoners, going to education is perceived much more as a social activity than for male prisoners. This aspect of education should not be discounted when designing educational programs for women.

### **Recommendation**

7. The Panel recommends that education and training programs for women have a focus on life skills, self-management skills and self-esteem and that this be reflected in the planning and advice of the Corrections Industry Training Board.

## **6.4 DRUG TREATMENT PROGRAMS**

Prisoner programs are the primary means by which prisoners are able to address their offending behaviours and rehabilitation goals. Given the significant numbers of prisoners with substance abuse problems entering the prison system, it is critical that quality drug treatment programs are implemented that provide opportunities for prisoner rehabilitation. The incarceration of persons who are also chronic substance abusers presents an important opportunity for treatment. Prison drug treatment service providers are in a position to cast a wide therapeutic net and intervene with prisoners who ordinarily would be unlikely to seek treatment. Without treatment, they are most likely to continue their drug use and criminogenic behaviours upon release.

### **6.4.1 Victorian Prisons Drug Strategy**

The Victorian Prisons Drug Strategy (VPDS) was introduced in 1992. Based on the principles of detection, deterrence and treatment, it sets the policy framework for the management and control of drugs in prisons.<sup>19</sup> The VPDS's original aim was to maintain the safety and good order of the Victorian prison system by keeping drugs out of prisons. A secondary goal was to manage prisoners with substance abuse difficulties consistently and apply uniform sanctions for the use of drugs in prisons.

<sup>19</sup> The VPDS has been modified and reassessed several times and is currently under review.

The key objectives of the Victorian Prisons Drug Strategy have been:

- to reduce the demand for drugs through deterrence programs (for example, the application of sanctions related to 'identified drug user' status for drug use);
- to reduce the supply of drugs through effective detection processes (for example, random and targeted urine drug screens); and
- to reduce the demand for drugs through treatment initiatives (comprising a hierarchy of types and levels of interventions).

#### **6.4.2 Responsibility of Prison Providers**

The private prison operators must comply with the requirements and standards detailed in the Victorian Prisons Drug Strategy, and provide a range of programs and approaches for prisoners to deal with substance abuse problems.

Treatment is an essential component of the Victorian Prisons Drug Strategy and it provides program opportunities for prisoners to address their offending behaviours. The ideal provision of drug treatment programs would establish a continuum of programs of graduated intensity that are linked within a complementary framework of support and are accessible to the maximum number of prisoners.

Three major categories of drug programs are currently available to Victorian prisoners. The substance abuse education programs are provided to prisoners as a means of disseminating information about substance abuse and the associated physical and social harms, and to challenge the links between the use of drugs and offending behaviour. While drug education is a useful intervention, it should not, however, be seen as a panacea for a habituated drug user to discontinue an entrenched, and at times 'functional' lifestyle overnight.

The relapse prevention programs are important in altering or modifying drug-using behaviour and maintaining that change. Although there are some core concepts that belong to all relapse prevention programs (for example, risk factors, drug use triggers, relapse cycles, identifying coping strategies), it is also important that there is enough flexibility within such programs to address individual prisoners' needs.

The intensive treatment programs aim to provide support for prisoners who require a greater level of treatment intervention than the drug education programs. Such programs are to include 'best practice' approaches, and are to be provided to prisoners who have been assessed as having a serious substance abuse problem, to assist them in reducing offending behaviour.

#### **6.4.3 Effectiveness of the Drug Strategy**

KPMG Consulting's review of the Victorian Prisons Drug Strategy in 1999 concluded that 'there are no fundamental problems'<sup>20</sup> with the strategy. The review observed that:

*there is little reliable assessment of whether the treatment in prison is effective for individual prisoners, in terms of short or long term change to the patterns of drug abuse, although there is some prima facie evidence of changes in patterns of drug abuse as evidenced by urinalysis tests for prisoners who have taken part in intensive drug treatment programs at CORE and Fulham.<sup>21</sup>*

It also suggested a number of changes could be made to improve the strategy, including a greater focus of treatment resources on the periods just prior to and following release from prison.

<sup>20</sup> KPMG Consulting 1999, *Review of the Victorian Prisons Drug Strategy*, Department of Justice.

<sup>21</sup> *ibid.*, p. 2.

A number of prisoners informed the Panel that they do not consider the types of drug treatment programs currently delivered in private prisons to be meaningful or useful. Complaints included the view that most programs are too theoretical to fit their specific and practical needs, and that the information disseminated is either insufficient or not credible (not enough 'street information'). Furthermore, there is no formal or systematic evaluation of drug and alcohol programs undertaken across the system.

The 10-bed drug treatment unit at the Metropolitan Women's Correctional Centre is never used to capacity (currently six prisoners are housed in that unit and undergoing treatment). In a prison where the population is identified as being 'high risk' in relation to substance abuse problems (coupled with the high level of drug-related incidents – the highest in the prison system), MWCC's philosophy of prisoner management regarding prevention and treatment of drug use must be questioned.

### **Recommendations**

8. The Panel recommends that the OCSC require the providers of all drug treatment programs to develop comprehensive evaluation components that are to be built into the program design, and ensure results are continually monitored to determine their effectiveness and changing treatment trends.
9. The Panel recommends that OCSC require that drug and alcohol programs include individual tailored relapse prevention plans that identify 'high-risk' situations and factors that assist the individual prisoner to develop effective coping mechanisms to reduce the recurrence of drug use.

## **6.5 MANAGING PRISONERS AT RISK OF SELF-HARM**

The *Review of Suicides and Self Harm in Victorian Prisons*, and a number of Coronial inquiries into deaths in prisons, highlighted numerous issues and recommended improved practices relating to the management of prisoners at risk of self-harm. The Investigation Panel was pleased to find that a number of initiatives have been implemented across Victoria's prisons:

- a pilot Suicide Risk Assessment Tool has been developed and a validation study is under way at two prisons;
- a working group has drafted a statewide framework for the management of high-risk prisoners;
- a revised framework and terms of reference for post-incident reviews was completed and implemented in December 1999;
- principles for sharing information between professional groups and correctional staff, and between providers, have been established;
- two forums attended by a range of correctional staff and health professionals concerning suicide prevention have been conducted;
- the OCSC has established a project to identify and validate competencies in suicide and self-harm procedures for correctional officers that will underpin the development of training material in this area; and
- a Building Design Review Project has drafted guidelines for cell design that include minimisation of hanging points and fire safety issues. A first draft report has been completed and a prototype cell constructed.

The Panel was particularly impressed by the procedures at Port Phillip, which has devoted significant policy effort and resources to identifying at risk prisoners and minimising self-harm.

Although, unfortunately, there will inevitably be cases of self-harm by prisoners from time to time, the Panel was satisfied that the present procedures, including recent reforms, provide adequate safeguards in terms of suicide risk assessment and the management of high-risk prisoners.

## 6.6 PRE- AND POST-RELEASE PROGRAMS

Almost all prisoners will eventually be released from custody and return to the community. Consequently, pre-release programs that address issues specific to reintegration into the community are critically important to rehabilitation. Pre-release programs that increase prisoners' abilities to maintain themselves outside prison are also vital.

In Victoria, there are some significant obstacles to the coordinated action necessary for prisoner post-release planning. The biggest hurdle arises from the segmentation that exists between the public and private sector prisons, which has resulted in different working approaches to preparing prisoners for release.

Apart from the Community Integration Program (CIP) and Bendigo Prison's life skills program,<sup>22</sup> very few coordinated, extensive or uniform preparation for release programs are conducted across Victorian corrections.

In CORE prisons, all prisoners are expected to undertake the CIP, which is designed to address some of the more important post-release concerns. The public sector prisons also provide prisoners on release with rail tickets and transport to nearby stations. However, the private prison providers are not obliged, or required, to develop or implement formal pre-release programs.

The Community Integration Program was introduced into Victorian prisons in 1991. The CIP represents a combination of measures aimed at making the transition on release from prison as smooth and positive as possible. The program was developed to address the immediate integration needs of all prisoners by providing a standard series of subjects to prepare prisoners for release. It provides direct practical assistance, essential information and knowledge, and access to resources delivered by community agencies and support networks. It was designed to reduce the prospect of reoffending behaviour and enable prisoners to reintegrate into the broader community.

### 6.6.1 Requirements of Pre-Release Programs

It was suggested to the Panel that the correctional system has not established a continuum of programs that support offenders properly in their transition from the prison to the community. It is critical that offenders continue to have access to appropriate assistance after they leave prison, because that is when they are most forcefully confronted with the factors that led to their original criminal conviction. It is also important that prisoners are linked into such services while they are in prison so their post-release needs can be identified and appropriately targeted.

As the Uniting Church's submission to the Panel highlighted:

*The Unit acknowledges that reintegration into the community is a significant challenge for many prisoners. The period immediately after release is a time of increased risk for drug-using ex-offenders.*

*There needs to be a much greater provision of services and allocation of time, in a coordinated manner, to prepare prisoners for release.*

Unemployment, health and substance abuse problems, and lack of housing and secure employment, are common issues in the lives of many men and women who enter prison. If they are to successfully

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<sup>22</sup> Bendigo Prison's life skills program consists of three modules: Job Search (30 hours), community integration (20 hours) and personal care and management (30 hours). The program is TAFE funded and the mix of inputs from all sectors of the prison is an important aspect of pre-release preparation and distinguishes the program from the existing CIP.

reintegrate into the community, it is very important that they have access to adequate income, supported accommodation and links into local community services for support.

A quality pre-release program in the prison is a vital step toward successful reintegration into the community. Such a program should start early enough in a prisoner's sentence to enable community linkages to be established. However, the Panel heard that the effectiveness of such programs often depends upon linking prisoners to support services in their local communities. The majority of sentenced prisoners are released from non-metropolitan prisons. Since the majority of prisoners normally reside in Melbourne, it is a considerable challenge to develop programs that facilitate these linkages.

The Panel concluded that release preparation programs lack priority and emphasis across prison providers generally. Non-government organisations, which have a wealth of experience in case management approaches, need to be woven into the pre-release process. They are also critical in helping prisoners to obtain access to housing and other programs once they return to the community. To this end, non-government organisations made strong representations to the Panel of their desire to be involved in release preparation programs, and notified of prisoners to be released, instead of the current situation where newly released prisoners turn up at their door unexpectedly.

*It is our experience that all prisons, both public and private, have found it difficult to facilitate access for community agencies to provide services to inmates. Whilst access is given to contracted in-prison providers the experience of non-government, non-contracted providers is that they regularly encounter . . . difficulties.<sup>23</sup>*

The Minister for Corrections recently stated that the Government currently spends about '\$300 per offender on post-release compared to \$55,000 to keep them in the system. A little more money spent at that end, if it can help reduce the likelihood [of prisoners] coming back in, would be helpful'.<sup>24</sup> The Panel supports this view and suggests that additional funding for the post-release support of prisoners should be directed at bringing community-based agencies into an effective partnership with prisons and their pre-release programs.

## 6.6.2 Post-Release Needs of Female Prisoners

*No good telling women about services when they are just about to be released if they haven't anywhere to go. What information I received in prison was just talk – no useful information.<sup>25</sup>*

The particular post-release problems of women were highlighted to the Panel. Unlike men who are imprisoned, most women in prison leave behind children who are dependent solely upon them. Women often cite separation from their children as the worst aspect of their imprisonment; therefore, it is essential that adequate provision is made for women to have their children with them as soon as possible after release from prison. '*The most basic requirement for a satisfactory starting point in cementing or re-establishing bonds with children is safe and secure accommodation.*'<sup>26</sup> Indeed, lack of accommodation is believed to be a major reason for women failing to successfully re-establish themselves in the community. Issues such as 'training for release', advice on benefits and part-time work, and access to childcare have also been identified as important issues for women leaving prison.<sup>27</sup>

The Panel was informed that MWCC did not provide a formal pre-release program, and it appears to have no planned approach to assisting women with post-release planning prior to their discharge from the prison location.

<sup>23</sup> Submission from Antony Calabro, Executive Director, Australian Community Support Organisation.

<sup>24</sup> Haermeyer, A. 2000, op. cit., p. 326.

<sup>25</sup> Carnaby, Helen 1998, *Road to Nowhere: A Report of Women's Housing and Support Needs When Leaving Prison*, Flat Out Inc., Collingwood, Victoria, p. 49.

<sup>26</sup> *ibid.*, p. 15.

<sup>27</sup> Submission from the Victorian Women's Prison Council.

### Recommendations

10. The Panel recommends that the OCSC develop a plan, in consultation with non-government organisations, for the involvement of appropriate non-government organisations in the delivery of pre-release programs and provision of post-release support for prisoners.
11. The Panel recommends that the Minister seek additional funding to be provided for the delivery of post-release programs by non-government organisations.

## 6.7 RESPONDING TO THE NEEDS OF WOMEN PRISONERS

While women make up a small minority of the total prisoner population, they are a diverse group with special needs. Generally, women offenders have more needs than similar male offenders and this is reflected in the range of between-gender differences that have emerged in corrections research.<sup>28</sup> This is further reflected in the high numbers of mothers (who, in most cases, are the child(ren)'s primary care provider) who make up the women's prison population. It is also mirrored in the rate of increase of young women offenders.<sup>29</sup> Women have different physical, psychological, dietary, social, vocational and health requirements, and need to be managed accordingly.

The Panel heard that:

*It is absolutely essential that a broader range of sentencing options linked to an emphasis on rehabilitation and family unification is instituted to minimise the imprisonment of women for minor offences and avert the associated social and economic costs.<sup>30</sup>*

Many prisoners have special health care needs and a compromised health status when they arrive in prison, but female prisoners have a higher than average rate of mental illness, substance abuse and undiagnosed physical problems.<sup>31</sup> Studies demonstrate that incarcerated women utilise health services more than men due to sex-specific health concerns, including pregnancies. Drug use, depression, behavioural and emotional instability, relationship discord, and poor academic and vocational skills are the most common complaints women bring on admission to the prison system.<sup>32</sup> Many studies detail significant numbers of incarcerated women reporting that they have been sexually or physically abused, and suggest survivors often turn to drugs to escape the painful memories of their abuse.

The complexity of these special health care needs, and the increased numbers of women with substance abuse problems, present a challenge for management and the health and drug treatment service providers working within prisons. As such, an holistic response is required that addresses any barriers to treatment participation. This will enable prison providers, in conjunction with drug treatment service providers, to recognise the complexity of the pathways and antecedents to drug abuse among this particular prisoner population.

The women prisoner population is relatively small and, consequently, is highly sensitive to any fluctuations in the numbers and profile of prisoners. This makes the task of their effective management difficult. The specialised requirements of women prisoners have implications for the

<sup>28</sup> See, for example, Belcourt, R., Nouwens, T. & Lefebvre, L. 1993, 'Examining the unexamined: recidivism among female offenders', *Forum on Corrections Research*, 5(3); Blanchette, K. & Dowden, C. 1998, 'A profile of sentenced women in the community: addressing needs for successful integration', *Forum on Corrections Research*, 10(1); Her Majesty's Chief Inspector of Prisons 1997, *Women in Prison: A Thematic Review*, Home Office, London; Weiser-Eastel, P. 1992, *Women and Crime: Imprisonment Issues*, Australian Institute of Criminology – Trends and Issues in Crime and Criminal Justice, No. 35, Canberra; Submission from the Victorian Women's Prison Council.

<sup>29</sup> On 30 June 1995, women aged under 25 years constituted 20.7% of the total female prison population. By 30 June 1999, this had risen to 34.1% of the total female population, although this figure decreased to 27.3% as at 30 June 2000.

<sup>30</sup> Submission from Reverend Ray Cleary, Melbourne City Mission.

<sup>31</sup> Submission from Forensicare.

<sup>32</sup> Barry, T & O'Commor, J. 1998, *Innovative approaches: Gresswell Women's Service, Victoria*, paper presented to the National Conference on Women: Alcohol and Other Drugs, Adelaide; Raynor, M. 1993, *Report into Allegations of Discrimination Against Female Prisoners at HMP Barwon*, Victorian Equal Opportunity Commission, Melbourne; Newkirk, C. 1993, *Mental health needs of the female offender*, paper presented at the Fifth World Conference on Prison Health, Brisbane; Denton, B. 1994, *Prison, Drugs and Women: Voices from Below, A Report for the National Campaign Against Drug Abuse*, Melbourne.

way correctional services should be delivered to women, for the design and layout of prison facilities, and for the education and training of custodial staff.

The Investigation Panel heard that the knowledge, skills and emotional demands required for staff working with women prisoners were very different from those required for working with male prisoners. Staff told us that the drain on emotional resilience was very high. Consequently, staff need consistent line management support, training and supervision to provide appropriate support for women prisoners.

#### **Recommendation**

- 12.** The Panel recommends that the OCSC undertake an analysis of the specific knowledge, skills, mix of experience and attitudes required for effective management of women prisoners; that the results of this analysis be incorporated into staff training standards relating to women's prisons; and that initial training and ongoing development for staff working with women prisoners be tailored to include modules specific to the needs of women prisoners and effective strategies for working with them.

### **6.8 RESPONDING TO THE NEEDS OF PRISONERS FROM DIFFERENT CULTURAL AND ETHNIC BACKGROUNDS**

As outlined in section 2.4, a disturbing trend in the profile of Victorian prisoners is the increase in the number of Aboriginal prisoners and those from an Indochinese background.

A submission from the Victorian Aboriginal Legal Service Co-operative Limited stated that:

*Victoria's ratio of indigenous to non-indigenous rates of imprisonment is 11.9. That means that indigenous people in Victoria are 12 times more likely to be imprisoned than non-indigenous people. Queensland (11.7) and Northern Territory (10.2) have lower ratios of indigenous imprisonment than Victoria.*

The Panel met with a group of Aboriginal prisoners at Port Phillip Prison who expressed concerns regarding the long delay in filling the position of Aboriginal Liaison Officer at the prison. Although some of the delays appear to be outside the prison management's control, the Panel believes there may be a case for designating an appropriate custodial officer to fill this role in the short term. The Panel also supports the view put forward by prisoners regarding the need for an Aboriginal Prisoner Listener at Port Phillip Prison.

The Panel was encouraged to hear of the arrangements put in place at both Port Phillip and at Fulham to provide culturally appropriate supports for Indochinese prisoners.

### **6.9 OTHER SUPPORT SERVICES WITHIN PRISONS**

There are a number of other organisations that support prisoners as they move within the Victorian prison system. Many examples were provided to the Investigation Panel regarding the valuable assistance provided to prisoners and their families by non-government organisations, including welfare agencies, community legal services and religious organisations. These groups are too numerous to identify individually, but the Panel acknowledges their important role within the prison system.

#### **6.9.1 Official Visitors**

Official Visitors play a key role in 'opening up' the system. The Panel believes they form an integral part of the accountability framework, and that the scheme should continue. However, the Panel

concur with the view expressed in the Audit report that there is some scope for further enhancing the overall effectiveness of the Official Visitors Program.<sup>33</sup>

It is essential that Official Visitors have the confidence of prisoners and prison staff, and are confident in their role. This can be better accomplished if Visitors are assisted to have a greater understanding of their role and responsibilities, and a more detailed knowledge of how the correctional system works. This could be achieved through, for example, an induction program or manual for Official Visitors that includes information on legislation, policies and procedures. This could particularly relate to areas in which prisoners are most likely to contact Official Visitors for explanation or assistance (such as sentence management issues, prison discipline or property). Ongoing support might also be provided through workshops on specific issues nominated by Official Visitors and/or an annual meeting with the Minister to discuss emerging issues.

The Panel noted that the OCSC has introduced a number of initiatives aimed at supporting and affirming the important role played by Official Visitors, including regular forums attended by the Correctional Services Commissioner and the Minister for Corrections. Work has also commenced on the design of an induction program, which is long overdue.

Official Visitors who met with the Panel were generally supportive of workshops sponsored by the Commissioner's Office. They believed there was benefit in meeting together to share experiences although, for country Visitors (especially those in full-time employment), it is often difficult to make the time available for a full-day meeting in Melbourne. Notwithstanding these problems, the Panel's view is that the OCSC should continue to provide forums and other activities, as appropriate, to support the valuable work undertaken by the Official Prison Visitors.

### **Recommendation**

**13.** The Panel recommends that the OCSC continue to support the Official Visitors Program.

### **6.9.2 Prison Chaplains**

Prison chaplains play an important role in supporting prisoners to practise their faith, by acting as independent advocates within the prison system, and by providing more general support to prisoners and their families.

State legislation and an international agreement state that prisoners have a right to practise the religion of their choice while in prison. This has been facilitated over many decades by the presence of chaplains in prisons.

In the early 1990s, a framework was established between the then Chaplains' Advisory Group and CORE that outlined the role of chaplains within the public prison system and set down a staffing ratio of one equivalent full-time (EFT) chaplain to every 250 prison beds. At that time, it was also agreed that women's prisons and reception prisons had higher needs and would therefore have a higher level of chaplaincy provision. Funding for chaplaincy services in CORE prisons is determined according to census figures and detailed in a service agreement, although prison chaplains work with prisoners who request help regardless of their religious affiliation.

The Panel was informed that the current chaplaincy arrangements in the private prisons:

*are unsatisfactory and fall below the standard of service that is provided in CORE prisons. [and] nothing has been able to be done because the contracts between the government and the private prison operators are very vague on the issue of religious practice.*<sup>34</sup>

<sup>33</sup> Auditor-General of Victoria, op. cit.

<sup>34</sup> Submission from Synod of Victoria, Uniting Church in Australia.

Chaplains reported that, in some prisons, there were problems accessing appropriate space in which to conduct formal religious ceremonies.

*Chaplains from faiths other than Christianity face additional problems in negotiating on behalf of their members for access to appropriate facilities for the practice of their faith because their requirements are not well understood by prison staff.<sup>35</sup>*

The particular problems of Muslim prisoners in gaining access to chaplaincy services, to halal meals and fasting during Ramadan were highlighted in submissions to the Investigation Panel. The Panel endorses the concerns expressed in submissions regarding the necessity to facilitate access by prisoners of faiths other than Christianity to chaplaincy and faith-appropriate services.

The Panel believes chaplains make a significant contribution to the support of prisoners and their families and should be encouraged in their work.

#### **Recommendation**

- 14.** The Panel recommends that the OCSC undertake a review of chaplaincy services to identify any initiatives that could be taken to strengthen these services for prisoners.

#### **6.9.3 Prisoner Legal Services**

Several submissions to the Panel highlighted a number of perceived difficulties for community organisations and, in particular, the legal profession in gaining access to prisoners. On the one hand, a submission from the Law Institute stated:

*At the Port Phillip Prison members complain that once received into the visiting area it often takes longer than half an hour for the particular prisoner to arrive for their visit. There is also an inconsistency of approach depending upon the particular officer controlling the registration of the practitioner into the computer system.<sup>36</sup>*

On the other hand, the Panel was informed that:

*The facilities for and flexibility surrounding professional visits, to Deer Park and Port Phillip in particular, have radically improved upon the previous model. The visiting facilities provide an appropriate degree of privacy with sufficient room for prisoners and professional staff as well as chairs and desks to work at.<sup>37</sup>*

The Panel heard that the introduction of the multi-provider system has made it more difficult for prisoners to seek redress for inadequate or negligent treatment within prison. Although the ability of prisoners to have their complaints dealt with appears to vary between prisons, the Panel was encouraged to receive the following submission from a prisoner at Port Phillip Prison:

*I recently made a complaint about a member of the staff here at Port Phillip Prison and management have upheld my complaint and passed on the apologies of the officer to me in writing. This clearly demonstrates the maturity of management here.*

Nevertheless, the Panel was informed that there is limited legislation or case law in Victoria that pertains to the rights of prisoners or the obligations of prison operators. Consequently, several submissions pointed to the strong need for a dedicated prisoner legal service that provides information and advice, and represents prisoners in relation to their incarceration.

<sup>35</sup> Submission from the Chaplains Advisory Committee to the Criminal Justice Sector in Victoria.

<sup>36</sup> Submission from Tina Millar, President, Law Institute of Victoria.

<sup>37</sup> Submission from Richard Bourke, Secretary, Criminal Bar Association.

*It is imperative that if we are serious about human rights in Victoria that we provide those most likely to have their rights breached, with quality legal advice and assistance.*<sup>38</sup>

Currently, there are very limited avenues for prisoners or their families to gain legal advice or representation in relation to matters that arise from imprisonment. Cost-effective access to quality legal advice and assistance for prisoners could be provided through a prisoner legal service that was established in association with an existing community legal service.

A Prisoners' Legal Service currently exists in Queensland as an independent non-profit organisation. It provides free legal advice and assistance to prisoners on matters such as parole/pre-release applications, disciplinary proceedings, complaints about treatment and conditions in Queensland prisons, and problems associated with classification, remission and segregation. It also carries out legal education for prisoners, research and development of legal resources for use by the public, private legal profession and other agencies, and law reform activities. The Panel supports the establishment of a similar legal service dedicated to the needs of prisoners in Victoria.

### **Recommendation**

- 15.** The Panel recommends that the Department of Justice establish and fund a Prisoners' Legal Service attached to, or in association with, an existing Community Legal Centre.

## **6.10 PRISON CROWDING**

The Panel recognises that the effects of overcrowding within the prison system generally has increased the difficulty in providing quality correctional services within individual prisons and across the system as a whole.

The Panel noted with concern that the growth in the number of prisoners in the Victorian prison system has led to the necessity of prisoners being doubled-up in units. Mattresses have been used on the floor of cells at MWCC, and double bunks used in many other prisons.

Although literature into double bunking is predominantly American, the research indicates that negative social relations and interactions are associated with the practice of double bunking. Many studies suggest prison overcrowding has a positive correlation to the number of assaults in prisons: prisoner assaults on prisoners, and prisoner assaults on staff, increase as prisoner numbers rise beyond capacity.<sup>39</sup>

Several studies have also demonstrated that overcrowding of prisons has deleterious effects on the physical and mental health of prisoners. In addition, overcrowding increases pressures on educational, recreational, health and religious services to prisoners. Exhaustion of prison services and limitations on recreational facilities (such as library books, television, lounge seating and recreational materials) increase the potential for boredom and tension and, subsequently, inflate the possibility of violence in the prison. The literature also suggests there may be consequences for staff that manifest themselves in an increase in staff turnover and the use of sick leave.<sup>40</sup>

The investigation by CORE into the impact of double bunking in public prisons concluded that:

*recent experience within Barwon and Loddon prisons is consistent with and confirms the literature. Both Barwon and Loddon showed an increase in the number of assaults, both prisoner on prisoner and prisoner on staff. The health implications were evident in the increase of self-mutilation and attempted suicide incidents as well as the anecdotal evidence, which revealed trends in complaints, prescription and diagnosis. The strain on prison services*

<sup>38</sup> Submission from the Federation of Community Legal Centres.

<sup>39</sup> CORE – the Public Correctional Enterprise *A Report on Matters Associated with Double Bunking in CORE Prisons*, Operational Review and Inspections Unit.

<sup>40</sup> *ibid.*, pp. 1–11.

*was illustrated by the resource implications in the provision of education and other programs and staff ill health data showed an increase following the implementation of double bunking.<sup>41</sup>*

These issues highlight that the need for additional prison capacity for both male and female prisoners remains a critical issue in the short and long term. The proposed 20-bed transitional facilities will provide much-needed pre- and post-release support in the metropolitan area. Although the Panel strongly supports the other expansion initiatives announced by the Government in the 2000–2001 Budget, it received many submissions regarding the need for a greater availability of prison beds in readily accessible areas of metropolitan Melbourne. As was noted by the *Audit Review of Government Contracts*, the location and the lack of easy public transport to the new prisons has had a detrimental effect on the capacity of families to visit prisoners easily.

*If family and friendship relationships are weakened it may be harder for some prisoners to move back into normal membership of the community after their release. This may diminish prisoner's rehabilitation prospects.<sup>42</sup>*

As has been previously noted, the majority of prisoners come from the metropolitan area and most will return there after release from prison. If the success of post-release programs is, at least in part, related to the capacity to link prisoners into local community-based services, prisoners being released from regional minimum security prisons will have much greater difficulties in this regard.

#### **Recommendation**

- 16.** The Panel recommends that research into the impact of overcrowding be a priority project to be undertaken by the proposed Correctional Research Institute (see section 8.3.3 of this report).

### **6.11 PRISON DESIGN AND MAINTENANCE**

While the Investigation Panel's work dealt largely with issues relating to the provision of correctional services, the impact of accommodation services on the operation of the prison should not be underestimated.

The Investigation Panel has noted that the development of a 10-year plan for infrastructure development across the prison system has commenced. As the Panel has noted in its comments pertaining to the planning function in chapter 8, it is critical that this plan take account of projections in the absolute numbers of prisoners and, to the extent possible, be informed by analysis regarding the possible future profiles of prisoners. The relationship between prison design and its suitability to the needs of the specific prison population that it houses makes a significant contribution to the effectiveness of prisoner management.

#### **6.11.1 Telephone System**

*Try to understand this simple point: The Arunta phone system breaks down every second day. It is a ... lemon that has so many faults that it can hardly even be called a 'system'. A system has to work the majority of the time to qualify for that description.<sup>43</sup>*

The Arunta phone system, which was developed specifically for use in prisons to enable monitoring of phone calls, is used throughout Australia. Telstra owns, installs and maintains this system under contractual agreements with each of the prison providers.

<sup>41</sup>ibid., p. 30.

<sup>42</sup>Russell, E. W., op. cit., p. 22.

<sup>43</sup>Submission from a prisoner at Port Phillip Prison.

The Panel received many complaints from prisoners regarding this system's operation. A serious concern of prisoners was the high cost of telephone calls. As one Port Phillip prisoner pointed out to the Panel:

*I am not a member of the public, I do not receive a wage that is in line with accepted community standards so why should I pay 'public' payphone rates. This is not a public place, it is a prison and I am an inmate and for better or worse this is where I live.*

The Panel heard prisoners, prison management and the Department of Justice had made many representations to Telstra regarding the high telephone costs incurred by prisoners using this system. The financial burden was particularly high where prisoners had to make STD telephone calls, such as when they were imprisoned at Fulham, or when their families lived in rural Victoria. The Panel was concerned to hear that all these appeals appear to have been unsuccessful.

The second issue raised by prisoners related to the poor quality of service, specifically malfunctions that caused the system to cease operating on an unacceptably frequent basis.

The Panel considers that both the concerns expressed by prisoners should be addressed as a matter of urgency.

#### **Recommendation**

**17.** The Panel recommends that the Minister for Corrections:

- (a) contacts Telstra to seek agreement for a reduction in the telephone costs for Victorian prisoners;
- (b) seek agreement from the appropriate Ministers in other States and Territories for a joint approach to Telstra regarding changes to the conditions under which Telstra operates the Arunta Telephone System such that costs of prisoner telephone calls are reduced; and
- (c) seek agreement from the Commonwealth Minister for Communications for his support for further approaches through the Corrections Ministerial forum to change the conditions under which Telstra operates the Arunta Telephone System such that costs of prisoner telephone calls are reduced.

#### **6.11.2 Fire Standards**

In July 1988, the Prisons Fire Procedures Advisory Group was established as a direct result of a major fire at the Metropolitan Reception Prison Coburg. Its terms of reference were agreed between the then Office of Corrections, the Metropolitan Fire Brigade (MFB) and the Country Fire Authority (CFA). The role of the Group was to:

- provide a forum for liaison between the prison service and fire services (that is, the CFA and MFB); and
- provide expert advice on the development of fire procedures, purchases of fire equipment, fire awareness training and other fire-related matters.

With the creation of private prison providers in 1996, the Office of the Correctional Services Commissioner took responsibility for the operation of this Group and expanded its membership to include private providers.

In March 1999, the Commissioner's Office produced a document entitled *Prison Fire and Safety Advisory Group (PFASAG) Guiding Principles*. This document included PFASAG membership, PFASAG Reporting Lines, relevant Australian standards, and performance requirements for the maintenance of essential services.

The Panel was informed that this Group had not met since 1999 and strongly recommends that it be reconvened.

### **Recommendation**

**18.** The Panel recommends that the Prison Fire and Safety Advisory Group be reconvened.

### **6.11.3 Design Issues Specific to the Metropolitan Women's Correctional Centre**

A number of issues in relation to the prison design and facilities at MWCC were raised with the Investigation Panel. A particular concern raised by non-government agencies and the legal profession was the inappropriate and insufficient interview facilities at the prison, resulting in the need to interview and/or counsel women prisoners in the open grounds of the prison. This situation does not assist the achievement of positive outcomes for either women prisoners or their representatives. Submissions were also received regarding the need for a redesign of the facilities to enable a physical separation of young and first-time offenders within the prison complex. It was alleged that the failure to keep young and first-time offenders separate had led to incidents of assault, 'standovers' and bullying of these vulnerable prisoners.

On its visits to MWCC, the Panel saw two women working in the prison grounds on only one occasion, and observed that the constant buffeting from strong winds due to the lack of a solid fence was likely to quickly undo any horticultural gains in any case. The Panel gained an impression of the prison as 'run down' in appearance. This was symptomatic of a possible lack of care for or about the surroundings by prisoners and staff alike which, in turn, impacts on how staff perform their duties and how prisoners behave.

Specific concerns were raised with the Panel as to whether the existing infrastructure, including program areas, will be adequate to cater for the proposed prison capacity expansion at MWCC. It was suggested that alternatives, including building additional prison capacity for women apart from MWCC, should be considered.

A view was put to the Panel that MWCC was designed without an understanding of the program needs of women prisoners. The oval and the leisure centre (amenities that would receive high usage in a men's prison) appear to be greatly underutilised. At the same time, there is a pressing need for additional interview facilities, particularly for the numerous non-government organisations that visit the prison to provide ongoing support.

The Panel noted that the increased number of prisoners, and the changing profile of female offenders, has led to the redesignation of a number of units at MWCC. Although a degree of flexibility is desirable in ensuring an ongoing 'fit' between the size of units and numbers of prisoner groups, there is an extent to which the integrity of the original prison design has been compromised, and the rationale for particular design features lost. For example, the original induction unit now accommodates protection prisoners. While the need to keep protection prisoners separate is acknowledged, the placement of newly received prisoners in a unit where they are unable to be locked in individual cells has allegedly resulted in 'standovers' and other unacceptable practices. The Panel understands that the induction unit is to be relocated to the new demountable unit, and this should ease some of these difficulties.

The Panel concluded that the poor condition of the prison facilities and the general unsuitability of some of the units for the prisoners' needs will require a substantial review of the prison's design and suitability. It appears that some capital expenditure will be required to effect the necessary improvements identified in this process.

## 6.12 SECURITY

As has been discussed above, the potential for compromise to the prison's security is greatly increased when it holds more prisoners than allowed for in the original design.

An efficient prison system's primary objective is maintaining secure prison establishments in which the community has confidence. This security does not only mean a well-protected perimeter to each prison, but also includes the security of equipment and buildings, and general staff acceptance of the major aims of a correctional service. These aims include containing and controlling prisoners and then, when that is achieved, gradually rehabilitating them.

An efficient security program within a prison builds confidence within the community and prison staff, and guarantees that this part of the criminal justice system operates for the benefit of both the community and the prisoners.

The community has a right to demand the safe and humane containment and control of all prisoners lawfully sentenced to imprisonment. Following the various incidents since 1996, when the private providers began operating, public confidence in this control has considerably diminished to a point where the prison management principles have come under close scrutiny, and the confidence of the community in prison management has reached a low ebb.

*Correctional Policy and Management Standards* for security have a stated outcome that prison security effectively:

- (a) *ensures the protection of the community by minimising the risk of prisoner escape;*
- (b) *provides a secure working and living environment for prisoners, visitors and staff; and*
- (c) *within the prison, controls any article or substance that may threaten the good order or security of the prison.*<sup>44</sup>

The Panel has concluded that, at Fulham and Port Phillip prisons, security is being addressed through incident reviews, self-audits, and regular and precise operational procedures that are monitored internally through management processes. Results of these audits and any issues raised through monitoring conducted by the OCSC have been immediately addressed.

This is not the situation at MWCC. The security function needs to be greatly improved before this maximum security facility is able to meet its contractual arrangements.

### 6.12.1 Security Management: Metropolitan Women's Correctional Centre

The OCSC has reviewed this facility for security compliance against prison management specifications and service standards on at least six separate occasions between August 1996 and July 2000. In addition, a number of significant incidents at MWCC were also reviewed.

Three Default Notices detailing significant incidents (which include failures in the delivery of security services and failures identified from the Security and Emergency Services Group security review) have been issued as a result.

On 1 June 2000, the OCSC engaged the Security and Emergency Services Group (SESG) to conduct a full security review of the MWCC.

The review team identified a number of significant issues in respect to security management at the prison. The number and type of issues led the review team to question the extent to which the prison was meeting its obligations to provide a safe and secure environment for prisoners.

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<sup>44</sup> OCSC 1995, op. cit., p.9; and OCSC 1996, op. cit., p.9.

This review found that:

*Whilst many of the individual issues were evidence that there was, and had been for some time, an absence of any management of the security function at the prison. The review team found that absence of documentation, policies and procedures to provide direction to staff and to assist in ensuring consistency in respect to prisoner management may well have been a contributing factor to the many prisoner management issues and incidents that have occurred at the prison over recent times.<sup>45</sup>*

### **6.12.2 Security Management: Fulham Correctional Centre**

The OCSC reviewed this facility for compliance against prison security management specifications and service standards on five separate occasions between April 1997 and February 2000, including two major incidents.

Fulham, as part of its quality system and focus on the security management function, has developed a security and emergency procedures self-audit program that is intended to be conducted on an annual basis. Security is also a regular agenda item for meetings of the Centre's Managers and Work Place Consultative Committee.

The prison has also given priority to security refresher training aimed at the Correctional Officer level. It has committed to deliver 36 hours of training for each officer by rostering training in three 12-hour shifts a week between May and August each year.

### **6.12.3 Security Management: Port Phillip Prison**

The OCSC reviewed this facility for compliance against prison security management specifications and service standards on five separate occasions between September 1997 and April 1999.

Port Phillip has conducted internal audits and Security Verification analysis on a regular basis. These audits covered Static Security, Dynamic Security, Security Management and Emergency Management. Risk assessments were also conducted on the Perimeter Security between March 1999 and May 2000.

The prison has, as part of its software package (PARADIGM), a program designed specifically for internal audit processes that is used to review all security areas on a regular basis. Records have been kept since January 2000. There are clearly defined role responsibilities for middle and senior management who are held accountable for the security function.

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<sup>45</sup> Security and Emergency Services Group 2000, *Security Review of the Metropolitan Women's Correctional Centre*. Conducted by the Security and Emergency Services Group on behalf of the Correctional Services Commissioner.

## Chapter 7

# Health Services

*The system does not readily support communication and relies on the individual providers to bridge communication gaps.<sup>46</sup>*

Nowhere is the fragmentation of the corrections system more apparent than in the provision of health services. As the Correctional Services Commissioner pointed out to the Panel, the problems of fragmentation have been highlighted in Coronial Inquest findings concerning the lack of coordination and communications between various parts of the system.

Prior to the privatisation of prisons, there was a single medical and psychiatric provider of prison health services – the Department of Human Services (DHS). A clinical director based at Pentridge Hospital coordinated the delivery of clinical services across the system. At times, even this system was not always fully coordinated as there were no formal standards for the delivery of health services, and contracted medical officers in country prisons applied their own approaches to prisoner health care.

Under a Cabinet decision of August 1995, DHS was given the responsibilities of monitoring the provision of health and psychiatric services in Victorian private and public prisons, and assisting with the development of policy and standards.

With the privatisation of prisons, the accredited health provider (St Vincent's Correctional Health) at Port Phillip Prison was contracted to provide clinical coordination of health care services across the system as well as secondary and tertiary health care for prisoners. Although there has been a relatively effective coordination of secondary and tertiary medical services through St Vincent's Hospital, the health care system as a whole has become fragmented, and there appears to have been some diminution of resources.

The separate contracting of the other components of health services (primary medical care, psychological services and mental health services) by each correctional services provider has led to major difficulties in providing appropriate standards in the continuity of care for prisoners. The contractual framework has also created divisions between the delivery of health care services on the one hand, and drug and alcohol services and suicide prevention strategies on the other. Neither the Department of Justice nor DHS has sole authority to advocate on behalf of correctional health services, and there is no single point of accountability for health care provision in the current system.

The various providers of these services are set out in the following table.

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<sup>46</sup> Submission from Sisters of Charity Health Service, Melbourne.

**Table 7.1 Health and Drug and Alcohol Providers**

<b>Prison</b>	<b>Health Provider</b>	<b>Drug and Alcohol Provider</b>
Melbourne Assessment	Forensicare	NW Health Network
Port Phillip	St Vincents	Moreland Hall
MWCC	CCA	Caraniche/CCA
Fulham	ACM	ACM
Ararat	Pacific Shores	Caraniche
Barwon	Pacific Shores	Caraniche
Beechworth	Pacific Shores	CORE
Bendigo	Pacific Shores	Caraniche
Dhurringile	Pacific Shores	CORE
Langi Kal Kal	Pacific Shores	Caraniche
Loddon	Pacific Shores	Caraniche
Tarrengower	Pacific Shores	Caraniche/VACRO
Won Wron	Pacific Shores	VACRO

As a group, prisoners have poorer health status than the wider community. As Forensicare outlined in its submission to the Panel:

*when they arrive in prison as a group [they] have higher rates of mental illness, issues of substance abuse, frequently undiagnosed physical problems and little knowledge of disease prevention. The interaction of these factors with environmental issues relating to prisons themselves means that there are large demands made on prison health care.*

Adequate provision of health services to prisoners, along with safety and security, is central to their care. It can make a major contribution to humane treatment and the orderly management of prisons.

## **7.1 CURRENT PROBLEMS WITH THE DELIVERY OF HEALTH CARE**

With a significant number of prisoner movements across Victoria's prison system, prisoners' health care has been compromised by the system's fragmentation. In recent reports, both the Auditor-General and the State Coroner have criticised the problems of lack of continuity of care and communication that have arisen with the current arrangements. These problems include:

- the differences in management of prisoner health, their risk categorisation and the standards of care;
- the constraints on information sharing between health providers, and between health providers and corrections staff;
- inconsistencies that hamper the development of standards for system-wide treatment; and
- very limited access to accurate costs of delivering health services to prisoners.

With Victoria's relatively small population of prisoners, the number of health providers adversely affects the development of a strong critical mass of expertise, leaves gaps in service provision, and leads to higher costs of pharmaceuticals. There was additional criticism of the fact that government expertise in the provision of prison health care had been diminished, and this had detracted from the Government's monitoring responsibilities.

These problems are not unique to Victoria. Similar issues have arisen in other States and among overseas authorities. However, even after the introduction of private prisons when a significant proportion of prison places were moved from the city to the country, the basic model for prisoner health care in Victoria did not change.

There is now a loss of interconnectedness between the health providers in prisons, and there is no clinical driver of the corrections health system.

The Correctional Services Commissioner made the point that *'the current correctional health system has no one champion for prison health services'*. Australasian Correctional Management (ACM) made a similar observation in its submission:

*ACM is of the opinion a structure needs to be established at the government level that is responsible for 'leading' and 'developing' the Victorian Corrections Health Service.*

Even though a number of health providers use a common medical record, the exchange of information between providers still relies on individual staff. The information exchanged on the health of prisoners moving from one prison to another is frequently limited. Even greater restrictions are placed on the confidentiality of a prisoner's medical record when the prisoner moves between prisons with different health providers. In some cases, this can have damaging results for the continuity of care.

*Health service providers have at times felt frustrated by the lack of action in policy development at the government level. For example for three years health service providers have been attempting to establish a consistent approach to the use of the medical record.<sup>47</sup>*

The Investigation Panel was informed that some steps have been taken to improve current arrangements. These include the following initiatives:

- health and correctional providers have agreed to a set of health information sharing principles, which was developed for consideration by the Corrections Health Board. A correctional/health working group is currently examining the implementation of these principles;
- chaired by OCSC, a high-risk case management working group, including DHS, is identifying common terminology and definitions for prisoners at risk of suicide and self-harm. A standardised 'at risk' assessment tool is also being developed;
- DHS is coordinating the development of a standardised prisoner medical file that will be used across the system. This is expected to be finalised within the next few months; and
- DHS undertakes regular audits of file/medication transfers to ensure files and medications are appropriately transferred with a prisoner to their new prison location.

### **7.1.1 Male Health Services: Current Arrangements**

Male prisoners requiring secondary and tertiary medical treatment are transported to Port Phillip Prison where St Vincent's Correctional Health Service provides health services. These movements disrupt prisoners' social stability, subject them to different procedures and standards, and sometimes result in what prisoners may see as loss of privileges when they return to their base prison. These privileges may be a change of accommodation, loss of employment or education opportunities, or a place in a program.

The Panel received several representations from prisoners who did not want to leave their base prison for medical treatment. DHS advised the Panel that they regularly receive letters of complaint from prisoners who do not want, or feel that they need, to return to Port Phillip Prison for health treatment. Prisoners from country prisons particularly are distressed at having to return to Melbourne when there is a possibility they will lose their accommodation and experience a long trip in the back of a transport van.

Capacity constraints at Port Phillip Prison mean those prisoners requiring medical treatment over a period of time have to go back and forth between their base prison and Port Phillip. This increases the

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<sup>47</sup> Submission from Kevin Lewis, Managing Director, Australasian Correctional Management.

number of prisoner movements (with the associated risks), and places more pressure on the limited places for prisoners in the metropolitan area.

The Panel encountered prisoners who refused to accept needed medical treatment because it entailed temporary transfer to Port Phillip Prison. Staff at the prisons the Panel visited confirmed the reluctance of prisoners to accept medical treatment transfers to Port Phillip.

*In one case a prisoner's family brought to the attention of HSC [Health Services Commissioner] the plight of their relative who had refused to access tertiary care for cancer because he did not want to return to Port Phillip.*<sup>48</sup>

Table 7.2 summarises the number of male prisoners transferred, and indicates the primary reason for that transfer. The number of medical returns has decreased, as has the percentage (from 22% to 17% of all returns), but this has been offset by an increase in prisoners escorted under Custodial Community Permit for 'Health Medical Hospital' reasons. The net effect is that total movements for medical reasons (that is, returns and Custodial Community Permits combined) have increased by 5.9%. However, given the overall increase in prisoner numbers, the average number of such movements per prisoner per year has remained at just over one.

**Table 7.2 Male Prisoner Movements for Medical Reasons 1998-99 and 1999-00<sup>49</sup>**

	1998-99			1999-00			% Change 1998-99 to 1999-00
	Prisoners Transferred to PPP/MAP for Medical Reasons	Medical leaves (CCPP)	Total Medical Movements	Prisoners Transferred to PPP/MAP for Medical Reasons	Medical Leaves (CCPP)	Total Medical Movements	
<b>Ararat</b>	140	151	<b>291</b>	81	227	<b>308</b>	5.8%
<b>Barwon</b>	90	97	<b>187</b>	90	179	<b>269</b>	43.9%
<b>Beechworth</b>	39	263	<b>302</b>	44	256	<b>300</b>	-0.7%
<b>Bendigo</b>	17	193	<b>210</b>	14	236	<b>250</b>	19.0%
<b>Dhurringle</b>	20	379	<b>399</b>	29	322	<b>351</b>	-12.0%
<b>Fulham</b>	120	217	<b>337</b>	90	235	<b>325</b>	-3.6%
<b>Langi Kal Kal</b>	18	276	<b>294</b>	14	276	<b>290</b>	-1.4%
<b>Loddon</b>	71	414	<b>485</b>	57	429	<b>486</b>	0.2%
<b>Won Wron</b>	13	298	<b>311</b>	12	392	<b>404</b>	29.9%
<b>Total</b>	528	2,288	<b>2,816</b>	431	2,552	<b>2,983</b>	5.9%

A major difference in the current arrangements is the distance covered when transporting prisoners to Port Phillip Prison's health services. When those health services were at Pentridge, the problem was not so acute. Now it is more likely that a prisoner from Fulham, for example, will have to be held over a few days at Port Phillip while awaiting the next transport run back to Fulham.

### 7.1.2 Women's Health Services: Current Arrangements

Women's health services are generally provided at the Metropolitan Women's Correctional Centre (MWCC), although the model requires that women prisoners access non-acute tertiary services at Port Phillip. As with male prisoners, female prisoners at Tarrengower told the Panel that they were similarly reluctant to transfer to MWCC for medical treatment.

<sup>48</sup> Submission from Beth Wilson, Health Services Commissioner.

<sup>49</sup> The number of returns include prisoners returned to the Melbourne Assessment Prison as well as prisoners returned to Port Phillip. The number of prisoners recorded as 'transit' also includes a small number of prisoners who transfer between prisons enroute (for example, Ararat to Langi Kal Kal). The numbers do NOT count any prisoner transferred or escorted by the individual prison, where the prisoner is transferred by any means other than the escort van.

The reliability of this data is difficult to verify: it has been manually counted from hand-written records held by the Sentence Management Unit at the Melbourne Assessment Prison. These records do not correlate directly with any of the PIMS/data warehouse records as they are a sub-set of Gaol Transfers, and indicate only those affected via the escort van.

Unfortunately, the same data are not kept in relation to women prisoners.

The Panel was informed of female prisoners' complex health needs from a number of sources. These health needs are frequently related to drug and alcohol problems, abuse, and a lack of coping abilities that can be aggravated by a term of imprisonment. Often female prisoners will resort to medication to help them to cope.

In its submission to the Panel, the Sisters of Charity Health Service stated that female prisoners require greater funding (proportionately) than male prisoners:

*Many of the issues around prison health for women reflect inadequate funding which makes medication more attractive for both service providers and female prisoners. Pressure on medical staff to prescribe psychoactive medication is often considerable.*

## **7.2 A NEW APPROACH TO THE HEALTH CARE OF VICTORIAN PRISONERS**

The Correctional Services Commissioner informed the Panel that the Department of Justice and DHS recognise the current arrangements are not satisfactory, and that policy development and planning need to be strengthened.

With all primary, secondary and tertiary health services brought together (general health and mental health) under a single provider, the Investigation Panel believes that significant improvements could be expected in:

- continuity of care;
- standards of care (regardless of location);
- accountability for health outcomes;
- management of high-risk prisoners;
- increased purchasing power;
- recruitment and retention of health staff and their development; and
- clinical leadership and the development of health policy.

Prison health providers are required to be accredited by an agency such as the Australian Council of Health Services (ACHS), although not all the current providers are so accredited. It was suggested to the Panel that greater benefit would be gained by Victoria working with ACHS to develop accreditation standards that are specific to prison health care. A single provider would be a considerable advantage in achieving this, and the Panel supports such a development.

With the first private prison operating contract coming up for review, the Panel believes improvement should be sought in the coordination of continuity of care and accountability for prisoner health care. The preferred model should be a single publicly funded health provider (that is, a not-for-profit provider), contracted by the Government through the Department of Justice.

This provider would coordinate the delivery of all primary, secondary and tertiary health care services to prisoners. An essential objective of the arrangement should be the separation of responsibility for control of the provision of prisoner health services from the provision of prisoner management. If health staff do not maintain their independence from prison management, the potential exists for health matters to be considered secondary to the correctional service imperatives, and this is a risk to the delivery of appropriate and timely health services.

The proposed model would not exclude the possibility of a consortia of two or three publicly funded health organisations acting together to provide the services, but reporting to a single Medical Director of Correctional Health Services. This Medical Director would be responsible for the overall correctional health service: policy, standards, monitoring and coordination.

The lack of coordination between drug and alcohol services and health services created by the contractual framework also needs to be addressed. The Medical Director should oversee the drug and alcohol services as well as medical services. This model was in existence prior to privatisation and had the negative effect of separating these services from correctional case management. This problem should be overcome by developing an effective case management system that is part of prison operators' contractual management.

Under a single health provider model, arrangements for primary health will continue to be delivered locally. More secondary and tertiary health services for prisoners would also be delivered at a local level. This would reduce prisoner movements over longer distances (and the risks associated with such movements), the time prisoners spend away from their base prison for health treatment, and the reluctance of prisoners to travel to receive required treatment. It should also improve the standards of management of prisoner health care and correctional health services.

Increasing the provision of health services at the local level should also help to relieve the pressures on places at metropolitan prisons, and help prisoner movements from Melbourne Assessment Prison to Port Phillip Prison.

Most secondary, and some tertiary, services are available at large regional hospitals near the country prisons (Ararat, Bendigo, Geelong, Gippsland Base, Latrobe Valley and Wangaratta Base). Prisoners in country prisons should be able to access these services. While moves are being made to develop the single provider model, this change can be achieved without dismantling the current contractual framework by setting up a system of invoicing between the local hospital and health service to St Vincent's Correctional Health. Under this model, St Vincent's remains responsible for secondary and tertiary health care services.

The primary care medical officer at the prison would determine, in conjunction with the Clinical Director, St Vincent's Correctional Health Services, whether the required specialist services could be provided by the local hospital, or whether the prisoner must return to Port Phillip Prison for assessment/treatment at St Vincent's. Factors that would be taken into consideration in referring to a local service are:

- the medical services required can be provided locally by hospitals or specialist groups, as appropriate;
- the local provider agrees to provide the service;
- the patient does not require extended escort at the local hospital (that is, an officer to provide custodial supervision for a lengthy period); and
- the prisoner's sentence management plan allows ongoing secondary/tertiary treatment and care to be provided at the local hospital if required.

With the advent of a single provider model under a Medical Director responsible for the overall corrections health service, some specialised services would continue to be provided centrally. Protocols would determine what secondary health services are able to be provided locally. Common policies, procedures and standards should be developed to support local prison medical services, and there should be a budget allocation to each provider for those services. The problematic split between acute and sub-acute psychiatric services would also need to be resolved once a Medical Director and the single health provider were in place.

The costs of correctional health services are likely to increase under this arrangement, particularly at MWCC. There would be some reduction in the movement of prisoners, and possible savings in cases where multiple assessments would have arisen under the existing arrangement. Medicare cover for prisoners would become an even more important issue to resolve (see section 7.5).

### **Recommendation**

- 19.** The Panel recommends that the Correctional Health Service move toward a single provider, under a Medical Director, with appropriate arrangements to deliver primary, secondary and tertiary medical services locally, as far as is practicable; and that the Medical Director have oversight of drug and alcohol services.

Such an arrangement will require renegotiation of the operational contracts during their term or at expiration. The Panel is encouraged to believe this is feasible since there was widespread agreement among those it consulted that the recommended health service model is the preferred one.

### **7.3 DEPARTMENTAL RESPONSIBILITIES**

The Prisoner Healthcare Unit within Aged, Community and Mental Health in the Department of Human Services sets the standards for the provision of prison health services and monitors compliance with standards. These functions remained in DHS (rather than moving to the Department of Justice with the private prison contracts responsibility) so the Minister for Health remained responsible for prisoners' health in line with his responsibility for the health of all Victorians. In addition, there has been an historical separation between Justice and Health to ensure good health outcomes for prisoners.

The Commissioner, Correctional Services has recently appointed a Manager Correctional Health Programs who is responsible for providing high-level correctional health policy advice to the Corrections Health Board. This has highlighted the need for DHS and Office of the Correctional Services Commissioner (OCSC) to clarify their respective roles in respect to policy advice.

There are a number of difficulties with the current organisational arrangements:

- DHS has no legislative authority to undertake its monitoring of prisoner health care services. The Commissioner has the legislative responsibility for monitoring in prisons as set out in section 8A of the Corrections Act;
- there is no agreed framework between DHS and the OCSC on the monitoring of prisoner health care services or policy advice;
- there are no clinical health care standards for DHS to monitor prison health services against because, when the prison system was reconfigured, the Government insisted on outcome-based contracts with all inputs being defined by the prison providers. Standards, such as provision of infectious diseases testing for new prisoners, are seen as inputs not outcomes; and
- DHS, through the Prisoner Healthcare Unit, has not been sufficiently resourced to fulfil both its monitoring and policy advice functions and has therefore focused primarily on monitoring.

The policy and monitoring of prisoner health care require close links with the range of other health services to ensure prisoner health remains part of the overall Victorian health system, and continues to be subject to the same rigours of monitoring and policy development as mainstream health services.

It has been suggested to the Panel that the prisoner health policy can be separated from the health monitoring functions. However, the Panel believes policy and monitoring are closely linked and must inform each other. The difficulty in leaving these functions with DHS is that DHS has not been sufficiently resourced to meet its obligations for these areas.

Transferring prisoner health care policy and monitoring to the Department of Justice would require, as an essential feature, that a separate unit be established for these functions. This would be necessary to ensure prisoner health is not compromised by custodial and correctional considerations. However,

there would still be an important requirement to ensure research and policy on emerging health issues informed correctional health needs.

Other considerations in making corrections health policy and monitoring the Department of Justice's responsibility include ensuring that:

- prisoner health services are not driven by corrections management and security considerations;
- medical standards and ethical guidelines are observed by those delivering correctional health services; and
- a cooperative but healthy tension is maintained between correctional officers and medical staff.

The Panel has had difficulty deciding this question of responsibility for correctional health services. There are good arguments for giving complete responsibility to DHS. However, the Panel has taken note of the status and priority that correctional health services receives in DHS. DHS has a very large range of administrative responsibilities, and health services as a whole are diverse, often controversial, and command a substantial proportion of the State's budget. Correctional health services are a significantly greater and more important part of prison services than they are of health services.

The Correctional Services Commissioner informed the Panel that no single department has responsibility for prison health services budgets, and that there is no established formula for gaining additional resources for initiatives such as hepatitis vaccination.

On balance, the Panel is of the view that correctional health policy and monitoring should become the Department of Justice's responsibility. The Panel believes that prisoner health issues will receive a higher priority if the Department of Justice and, particularly, the OCSC are responsible for them, given the importance of integrating health with other prisoner welfare and management issues.

The conclusion is conditional on the Government agreeing to significantly increase the allocation of resources for correctional health policy and monitoring, and on the Department giving appropriate recognition and priority to this aspect of prison services. In particular, there should be more comprehensive and regular clinical surveys of prisoner health status at each of Victoria's prisons undertaken in conjunction with DHS.

The Department of Justice will also need to ensure there is strong liaison with appropriate officers in DHS. In part, this can be assured through a strengthened Corrections Health Board, which should oversee the new health services unit in the OCSC. Because of the concern that correctional imperatives may override health issues, it is essential that DHS provide advice on public health developments through the Corrections Health Board.

With the proposed transfer of responsibility, the Panel concludes that the Department of Justice should identify the current budget for health services in order to prepare bids for new health initiatives in correctional services.

### **Recommendations**

- 20.** The Panel recommends that the Department of Justice become responsible for correctional health services policy and monitoring; and that a unit within the OCSC be established for this purpose reporting directly to the Commissioner.
- 21.** The Panel recommends that any budget bids be developed in conjunction with the Corrections Health Board that should have oversight of the new unit.

## 7.4 THE CORRECTIONS HEALTH BOARD

Although those the Panel consulted saw the Corrections Health Board as a valuable development, there was concern that it did not have the independence to ensure the full collaboration of both the correctional and health administrations. This will be particularly important if the organisational separation continues in line with the Panel's views. Inevitably, from time to time, tensions arise between correctional objectives and those of the health providers. These are not necessarily unhelpful and may be important in improving performance. However, the Panel sees merit in the Corrections Health Board having an independent Chair: a person of standing in the health field, but one who is not directly involved in either corrections or correctional health services.

The Panel believes that it might be advantageous to add one or two similarly independent members to the Board. Consideration, in consultation with DHS, should also be given to adding the Chief Psychiatrist to the Board.

There is also a need to raise the profile of correctional health in terms of university support. Therefore, the Panel supports an earlier proposal for the establishment of a Chair in Correctional Health at a Victorian university. This Chair would provide the clinical supervision, links into education, and research and peer support. It should improve the profile of prisoner health, assist in the recruitment and retention of staff, and enhance their training and development opportunities. Student placements with correctional health facilities and supervision of special health services should flow from such an arrangement.

### Recommendations

22. The Panel recommends that the Minister for Corrections and the Minister for Health appoint three additional members to the Corrections Health Board: an independent Chairperson, and two other independent members.
23. The Panel recommends that the Department of Justice fund a Chair in Correctional Health at a Victorian university.
24. The Panel recommends that the Department of Justice seek a significant increase in resources for correctional health.

## 7.5 MEDICARE ELIGIBILITY

*because prisoners do not have Medicare, they cannot access a range of services that may be available locally.<sup>50</sup>*

*Prisoners are currently not entitled to Medicare benefits. As a result they are unable to access health services in the region where the prisons are located.<sup>51</sup>*

The Panel was surprised, for several reasons, to learn that prisoners were not provided with Medicare cover:

- prisoners are among the most disadvantaged in terms of their health;
- Medicare is understood to be Australia's universal health cover;
- prisoners, like other Australians, are presumably encouraged to maintain private health cover;

<sup>50</sup> Submission from the Victorian Council of Social Service.

<sup>51</sup> Submission from Beth Wilson, Health Services Commissioner.

- prisoners are not exempt from taxation; for example, there is no exemption from GST for prisoner purchases (and so far no compensation for GST-imposed price increases for prisoners); and
- prisoners will return to the community and to Medicare cover on release.

In the course of its consultations the Panel was made aware of prisoners who did maintain their private health cover during their confinement, and of some who underwent private medical treatment while in prison. These prisoners did not receive the benefit of Medicare rebates.

The Panel sees this issue as significant as it is unfair and not conducive to the development of correctional health services or prisoner rehabilitation.

### **Recommendation**

**25.** The Panel recommends that the Minister for Corrections:

- (a) seek agreement from the appropriate Ministers in other States and Territories for a joint approach to the Commonwealth Minister for Health to provide Medicare cover for prisoners; and
- (b) seek agreement from the Minister for Health for his support for further approaches through the Health Ministerial forum to change the policy that disallows prisoners from receiving Medicare benefits.

## **7.6 CLINICAL AUDITS**

*There is no system in place within the model to review health epidemiological data on the prisoner population to assist in determining health service needs both currently and potentially in the future.<sup>52</sup>*

At the time of the Panel's investigation, a clinical audit was being undertaken of the prison health service at MWCC. The Panel believes such audits should be a regular feature of the performance monitoring of prisons. Given the complex health needs of prisoners, the Panel also considers that such audits should be undertaken by professionals with expertise in the delivery of correctional health services. It heard that Pacific Shores Health Service (the provider of health services in public prisons in Victoria) considers the involvement of correctional health professionals from other jurisdictions in its own reviews of health services has been a successful strategy.

It was also suggested to the Panel that health surveys of both female and male prisoners should be undertaken to establish benchmarks of prisoner health. The Panel understands that although establishing such benchmarks would be difficult, they would be valuable in identifying what provision for prisoner health services should be made in terms of funding, programs and clinical services.

The Panel takes the view that these benchmarks would best be developed through an initial survey or surveys of women prisoners. The number of women prisoners is, compared to men, small and their health problems appear to be more diverse. Subsequently, surveys of male prisoner health could build upon the experience gained from the audits of female prisoners.

<sup>52</sup> Submission from Kevin Lewis, Managing Director, Australasian Correctional Management.

**Recommendation**

- 26.** The Panel recommends that the Commissioner, in conjunction with the Department of Human Services:
- (a) arrange for the conduct of a survey of the health status of female prisoners to establish a benchmark of female prisoner health;
  - (b) undertake a survey of the health status of male prisoners in light of the experience gained in conducting the audit of the health of female prisoners; and
  - (c) undertake further surveys of the health status of female and male prisoners every two years.



## Chapter 8

# Integrating Victoria's Corrections System

*The fragmentation resulting from a competitive multi-provider system is one of the worst outcomes of privatisation. If such a system remains a mechanism for overall policy and regulation of the system must be established.*<sup>53</sup>

A common theme of the numerous submissions and consultations was 'fragmentation' of the corrections system. The Panel found that fragmentation is perceived to exist not only between public and private prison providers, but also between sub-contracted providers (health, drug and alcohol, education). This has led to a lack of continuity of care (with different prisons establishing different rules and procedures), and a lack of information sharing between prisons, and between various service providers.

This is not altogether surprising since the policy framework that established private prisons did so with the express purpose of encouraging competition between providers. This was consistent with the former Government's policy of encouraging the public sector to compete with the private sector in delivering services to the community.

This section of the report examines the structural arrangements for managing Victoria's prison system, and proposes some changes to existing roles and responsibilities to enhance the Department of Justice's capacity to manage the system in a more integrated and cohesive way.

### 8.1 CURRENT STRUCTURAL ARRANGEMENTS

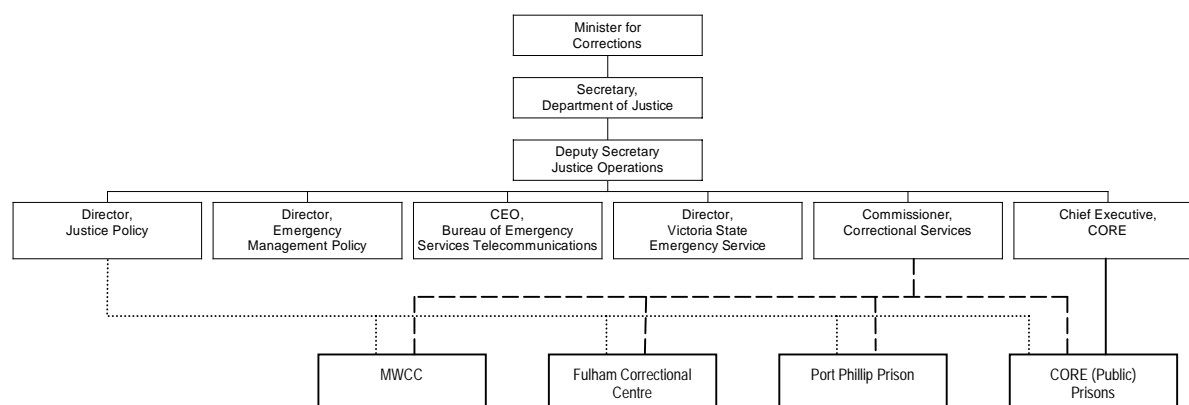
The introduction of private providers of services resulted in major changes to the regulatory and management frameworks in the public sector, and the organisational arrangements that were established in government departments. The 1995 KPMG Consulting report on *Correctional Services Restructuring* described a number of the structural principles that were required to support the then Government's reform agenda. These included separation of the policy/regulatory functions from service delivery, and the separation of the purchaser of a service from the service provider. A further principle contained in the KPMG report described the desirability of establishing a level playing field between public and private providers. The current structure of the Department of Justice is largely organised according to these principles.

Figure 8.1 illustrates the organisational arrangements established in April 1999. Prior to this, the Correctional Services Commissioner reported directly to the Secretary; however, under the current arrangements, the Deputy Secretary Justice Operations oversees all corrections matters as well as other portfolio responsibilities.<sup>54</sup>

<sup>53</sup> Submission from the Eastern Suburbs Legal Service.

<sup>54</sup> Harmsworth, Peter 1999 *Into the 21<sup>st</sup> Century – Enhanced Departmental Management and Organisational Arrangements: Final Paper*. Department of Justice.

**Figure 8.1 Organisational Structure of Correctional Services within the Department of Justice**



## 8.2 THE ROLE OF THE COMMISSIONER

*VCOSS believes that the structure of the Commissioner's Office needs to be reviewed to clarify the role of this office.*<sup>55</sup>

Consistent, cohesive and integrated operation of the Victorian corrections system requires commonality and clarity of purpose. It also requires a management framework that clearly identifies the 'head of system', and actively promotes collaboration within the system.

The mission of the Office of the Correctional Services Commissioner (OCSC) is *'To set the direction for, and to provide leadership to, the Victorian correctional services system'*. The Panel found a significant level of support for the clear identification of a 'head of system' role, and for this role to be allocated to the Correctional Services Commissioner.

As more fully described in section 2.4.2, the Correctional Services Commissioner is responsible for the strategic management and oversight of the Victorian correctional system including policy, planning and standards, monitoring and assessment, and sentence management.

However, the Panel found that there is a significant level of perceived ambiguity surrounding the role of the Correctional Services Commissioner. Issues highlighted in consultations centred on the need for greater clarity in relation to the respective role and responsibilities of the Correctional Services Commissioner, the Deputy Secretary Justice Operations, and the Director Justice Policy. A number of submissions to the Panel indicated, for example, a perception that there were two prison systems in Victoria: a private prison system managed by the Correctional Services Commissioner, and a public prison system managed by the Secretary and the Deputy Secretary Justice Operations.

The Panel heard that, in part, the reporting relationship of the Commissioner to the Deputy Secretary undermines the focus on the former position as 'head of system'. However, the evidence presented to the Panel suggests that the majority of issues stem not from this, but rather from the roles and reporting relationships of the Director, Justice Policy and the Chief Executive, CORE – the Public Correctional Enterprise (CORE). Both head separate business units that report directly to the Deputy Secretary and they are at the same level on the organisational chart as the Correctional Services Commissioner.

Organisational structures should be seen as evolutionary, with management arrangements designed to achieve short- and longer term priorities in a balanced manner. Roles and responsibilities change over time. While the particular structural arrangements may have once been appropriate for the policy

<sup>55</sup> Submission from the Victorian Council of Social Service.

environment, it may be time to reconsider the organisational structure and allocation of responsibilities with a view to streamlining and strengthening management arrangements.

### **8.2.1 The Contract Management Role**

The three Prison Services Agreements require the appointment of a Contract Administrator who will be the official liaison between the Minister for Corrections and the Contractors. The Contract Administrator is also the 'service purchaser' within the Victorian corrections system.

In the current organisational structure, the role of Contract Administrator is allocated to the Director, Justice Policy. The focus of the corrections contract management function within this unit is on the commercial, financial and contractual arrangements that support the delivery of correctional services in Victoria. The role of the Contract Administrator is to:

- identify the correctional services to be purchased by the State;
- establish appropriate contractual arrangements; and
- administer the contracts on behalf of the Minister for Corrections.

Clearly, the Contract Administrator must rely to a considerable degree on advice from the Correctional Services Commissioner to carry out these responsibilities. The Commissioner provides reports to the Contract Administrator concerning service providers' performance and levels of compliance with their contracts to effect payments or to issue default notices, and remains responsible for identifying the correctional services that need to be 'purchased'. The private prison providers expressed some confusion about the split in responsibility between the two areas.

The rationale for the current location of the contract management function is related to the strong policy principle in existence at the time that private prisons were introduced. According to this principle, the integrity of the regulatory function is best maintained by separating it from the machinations that frequently attend negotiations around contract variations and penalties.

First, it has been argued that the current separation prevents the Commissioner from being involved in prolonged and time-consuming activities related to contract negotiation. The Panel heard of a previous example of a prison's underperformance that required the Contract Administrator's considerable time and effort, working with an independent arbitrator, to resolve the issue of the quantum of penalty that should apply within the terms of the prison's contract. The separation of responsibilities released the then Commissioner to focus on more immediate and critical issues. However, the Panel remains unconvinced that this could not have equally been dealt with by transferring appropriate resources to the OCSC.

Second, it has also been suggested that the separation of the Commissioner from contractual negotiations strengthens the Commissioner's ability to maintain positive relationships with the private prison providers, particularly when there is disagreement relating to issues such as defaults or penalties. In the Panel's view, this distinction is artificial given it is the Commissioner who provides the advice upon which such default notices are issued.

Third, it has been suggested that the continued separation of the contract management function will be a more valued feature of the current system when each of the five-year tenders are reviewed, particularly if the tender reviews involve competitive tendering by the public sector. Legal advice received by the Investigation Panel does not support that view, and raises doubts about the wisdom of the Contract Administrator leading the tender process.<sup>56</sup>

*In our view, it would be relatively simple for an incumbent operator to (rightly or wrongly) allege bias on the part of the Contract Manager and such allegations are difficult to categorically refute where the parties have been in a long-term commercial relationship. If the*

<sup>56</sup> Legal advice provided by Maddock Lonie and Chisholm.

*State made the decision to proceed to a public tender rather than offer the Contractor a further term, there would be potential issues if the person involved in making that decision also had a significant role in selecting any new operator, assuming that the existing operator was a tenderer. In circumstances where it would not be difficult for the State to make arrangements for an impartial tender management team it would be difficult to justify why this was not done. In recent years courts have shown an increasing tendency to overturn Government tenders where there has been some lack of purity, resulting in the relevant Government being exposed to tenderer's costs.<sup>57</sup>*

On balance, the requirement for an ongoing separation of the contract management function from the Correctional Services Commissioner's responsibilities is debatable. It is acknowledged that there needs to be a degree of separation between contract management, policy formulation and monitoring. The Panel believes this can be effected through appropriate organisational arrangements within the OCSC. A more integrated model would reduce confusion over correctional leadership responsibilities.

### **Recommendations**

- 27.** The Panel recommends that the contract management function be transferred from Justice Policy to the OCSC, together with the resources attached to this function.
- 28.** The Panel recommends that any future tender process be managed outside the entirety of existing operations to ensure the utmost probity, but that experienced employees be able to provide advice to inform the process.

### **8.2.2 The Monitoring Role**

The Corrections Act clearly allocates responsibility for monitoring to the Correctional Services Commissioner. In chapter 4, the Panel made a number of recommendations relating to the implementation of a proposed program of ongoing quality reviews of prison performance, and recommended that this function remain within the OCSC.

Although the Panel's recommendations are based on a model in which staff are seconded from different prisons to participate in these reviews, additional staff resources will be required to develop and manage this program. As suggested in section 4.8, the Panel proposes that, in the first instance, such additional resources should be transferred from CORE to the Commissioner's office. This would strengthen the OCSC's 'corrections experience', and could achieve a better balance of staffing between the Commissioner's office and the head office of CORE.

### **8.2.3 Facilities and Accommodation Services**

Original responsibility for establishing the three new private prisons was vested with the New Prisons Project Team. It was responsible for developing the detailed contractual arrangements for the design and operation of the three new private prisons. Once the contracts had been let and the prisons were operational, the unit was reformed as the Major Projects Group. However, it retained a residual interest in the private prisons and undertook the yearly inspection of the physical facilities of the prisons, and coordinated the Department of Justice's (DOJ) advice on upgrades or changes to the physical facilities within the private prisons.

Changes to personnel have meant the facilities role has settled with Justice Policy; however, the unit lacks the skills and expertise required to undertake it. For example, the unit is responsible for overall management of the current prison capacity expansion projects, but it is totally reliant upon external advice from the OCSC in relation to correctional management, specialist consultants in relation to

<sup>57</sup> For example, see *Hughes Aircraft Systems International v Airservices Australia* 146 ALRR1 at [http://www.austlii.au/au/cases/cth/federal\\_ct/1997/5558.html](http://www.austlii.au/au/cases/cth/federal_ct/1997/5558.html)

design and construction aspects, and legal advice in relation to contractual requirements. While it is imperative that such projects be managed in an integrated manner, to do so outside the OCSC undermines the Commissioner's status as 'head of system'.

Additionally, the process that approves upgrades of public prisons was raised with the Panel as a further example of the way in which private prisons are treated differently from the public provider. Whereas the OCSC has significant input into the development of proposals requiring capital expenditure on private prisons, CORE is able to propose and have approved capital expenditure on the public prisons (for example, security upgrades) without any reference to the Correctional Services Commissioner.

It became clear to the Panel during the course of its investigations that a major challenge is the need to address the prison system's future infrastructure requirements. The Commissioner's Office is currently involved in managing a number of projects in this area. A new 10-Year Facilities Masterplan is being developed, as are revised standards for cell design (to take account of the Coroner's findings in respect of deaths in custody). A project to address issues of fire safety in prison buildings has commenced. In light of these initiatives, the Panel believes there is a need for additional expertise to be available in the Commissioner's Office.

#### **Recommendations**

- 29.** The Panel recommends that the Secretary Department of Justice create and fund a senior facilities position within the Office of the Correctional Services Commissioner to provide ongoing advice on, and review of, prison facilities strategic planning.
- 30.** The Panel recommends that infrastructure development proposals for public prisons be reviewed against an overall facilities MasterPlan in the same way as private prisons.

#### **8.2.4 Reporting Relationships Between OCSC and Providers**

The Panel heard that the current reporting arrangements are unclear and favour the public provider, which reports directly to the Deputy Secretary Justice Operations. The private providers felt CORE ought to report through the OCSC on day-to-day issues in the same way as they are required to.

CORE has a board (intended to be somewhat equivalent to the company boards of the private providers). However, the CORE Board comprises only the Secretary and Deputy Secretary Justice Operations. In the Panel's view, this gives an impression of preferential treatment to the public provider. As CORE has direct access to the head of the Department, it can effectively bypass the Commissioner.

The Panel supports the arrangement where the public provider has a board to oversee its management. In the Panel's view, the Secretary of the Department should not be on that board, but it should be enlarged (as the Department proposes) to include two or three non-departmental people who have experience and expertise likely to be of value to correctional services.

To clarify reporting relationships, the Panel believes that CORE should continue to report to its board in the same way as each of the private providers report to their respective boards. In respect to the Commissioner, CORE's position and that of the prisons it represents should be no different from that of the private prison operators. There should be no doubt that the Correctional Services Commissioner is the head of the prisons system that includes public as well as private prisons.

### **Recommendation**

- 31.** The Panel recommends that the Board of CORE – the Public Correctional Enterprise comprise up to five members; the Deputy Secretary Justice Operations and at least two or three non-departmental members.

#### **8.2.5 Resourcing Issues**

The Panel was advised that CORE's corporate head office is significantly larger than that of any of the three private providers, and broadly equivalent to that of the Office of the Correctional Services Commissioner. This level of corporate resources enables CORE to undertake a number of responsibilities that may more properly belong to the Office of the Correctional Services Commissioner (such as responsibility for policy development of the statewide Sex Offenders' Strategy). This gives CORE a public and corporate profile that the OCSC does not have the resources to achieve, and is a constant source of tension between the two organisations.

In contrast, it was suggested to the Panel that the OCSC was underresourced given the dynamic and complex nature of the corrections environment, and the diverse range of activities for which it is responsible. This had led to a situation where a great many projects have been commenced but very few seem to have been concluded. The Panel heard this was because the OCSC had had to adopt a 'fire-fighting' role. Staff reported feeling very frustrated because no sooner had they begun work on a project than a crisis occurred and they were diverted to a new set of priorities.

It was also suggested that the location within CORE of a number of functions and units that appear to duplicate those within the OCSC undermines the standing of the Commissioner's office. The Panel noted that the resources available to CORE have enabled it to be proactive in the strategic development and management of its correctional services. The allocation of resources to the OCSC and CORE needs to be reconsidered in light of both organisations' ongoing responsibilities to avoid duplication of functions.

The resourcing arrangements appear to stem from the planned need for CORE to retain sufficient expertise to enable it to operate, and indeed 'compete', as a Statutory Authority. It is no longer intended that CORE should move to this form of organisation. Nevertheless, given CORE's significant operational expertise, the Panel agrees that it is desirable that CORE retain a certain capability to provide essential services (such as the capacity to deal with emergencies) whether in public or private prisons.

### **Recommendation**

- 32.** The Panel recommends that the Secretary Department of Justice, the Correctional Services Commissioner and the proposed Board of CORE – the Public Correctional Enterprise, review the allocation of staff between the OCSC and CORE to minimise duplication of functions and resources.

#### **8.2.6 Re-Establishing the Role of Deputy Commissioner**

An important issue raised with the Panel related to the extent of involvement of the OCSC in operational issues.

The current organisational arrangements were intended to separate the roles of purchaser from provider, and transfer the 'risk' associated with day-to-day operations to the operator. The OCSC was intended to remain at arm's length from operational concerns.

Clearly, the State retains overall responsibility for the security, safety and welfare of all prisoners, and for the maintenance of standards in all prisons, both public and private. The OCSC is directly responsible for exercising the State's duty of care through the sentence management function. The Commissioner is also responsible for endorsing each Operator's Operating Manual, and for authorising individual staff to perform the duties of a prison officer.

The Panel believes that the position of Deputy Commissioner (abolished in 1999 as part of the new Labor Government's Executive Officer reductions) needs to be re-established. The appointment of a chief operational officer would release the Commissioner from the range of tasks that presently occupy much of her time, and would contribute to the separation of the policy, standards, monitoring and contract administration functions from day-to-day operational responsibilities.

In addition, the Panel supports the need for the Deputy Commissioner to undertake the essential role of establishing effective networks to facilitate system-wide collaboration and integration. Responsibilities in this regard might include:

- conducting regular meetings of staff across the prison system (for example, programs staff);
- chairing the regular Providers' Forum (although the Panel noted that this forum requires review to ensure its ongoing relevance);
- facilitating committees that deal with operational issues (such as the Chaplains Advisory Committee); and
- providing a mechanism for feedback between the operational and non-operational aspects of the OCSC's activities.

#### **Recommendation**

- 33.** The Panel recommends that the Secretary Department of Justice create and fund a position of Deputy Commissioner within the Office of the Correctional Services Commissioner to assume responsibility for managing operational issues where the OCSC needs to be involved.

#### **8.2.7 Strengthening the Commissioner's Role**

The Panel is of the view that a number of relatively simple steps should be taken to reinforce the Commissioner's role as 'head of system', for example:

- the role and responsibilities of the position should be more clearly described in legislation;
- the Commissioner should chair committees, boards and meetings that discuss the current and/or future provision of correctional services (for example, quarterly and annual performance meetings);
- the level of the OCSC's resourcing should enable it to be proactive in identifying and addressing issues, in planning, and in policy development; and
- the skills base of OCSC staff should include an appropriate balance between broad policy development and specific correctional (operational) expertise.

The Corrections Act should prescribe the powers and functions of the Commissioner in relation to the operation of private and public prisons. The Act leaves no doubt about the Commissioner's right and responsibility to intervene where there are threats to the fulfilment of the Minister's duty of care. However, the Panel believes the Commissioner's role and responsibilities should be described in the legislation. If the distinction between the Commissioner's responsibilities (as enlarged by the recommendations in this report) for the organisation and oversight of prisons, and the Contract Administrator's responsibilities are to continue, the Act should specify both roles.

### **Recommendation**

- 34.** The Panel recommends that the Secretary, Department of Justice develop clear statements of roles, responsibilities and reporting relationships for all key players in the corrections system. These statements should reinforce strongly the view that the Commissioner is unambiguously the 'head of system' for corrections in Victoria, and that should be incorporated into the *Corrections Act 1986*.

## **8.3 PLANNING AND RESEARCH**

The Auditor-General reported that:

*a key ingredient for the satisfactory management of prisoner management functions is that, as far as possible, the prison system will have the capacity to receive the number of prisoners entering the system and to place new prisoners in a manner consistent with the assessments completed by the SMU.<sup>58</sup>*

The private prison operators, like the public sector prisons, have struggled to implement long-term strategic prisoner management initiatives in the face of changes to prisoner profiles and numbers. Many of these difficulties have arisen because, for a number of years, strategic planning for Victorian prisons received much less attention than the tasks associated with managing prisoners and constructing prisons. Very limited attention was directed to future planning or research.

It is important that a comprehensive approach to future planning be undertaken. This means projections of future capacity requirements need to go beyond a simple estimate of total numbers. To the extent possible, research and analysis should provide an indication of the future profile of prisoners to inform longer term developments in prisoner classification and case management practices, as well as the location and the kinds of facilities required.

The prison system's current capacity problems are, in part at least, a result of failures of the planning model. Many prisons must now accommodate a substantially different profile of prisoners than they were originally designed for, and this explains why the private and public sector operators have struggled to maintain a seamless approach to prisoner management and their progress through the Victorian prison system.

### **8.3.1 Prisoner Projections**

The Panel noted that the OCSC is currently preparing forecasts of numbers of male and female prisoners. Such forecasts are an imperative for proper system planning.

As outlined above, projections of total prisoner numbers are of limited value in determining prisoner profiles which, in turn, determine the nature of accommodation and program requirements. The Commissioner's Office lacks sufficient statistical resources to conduct such analysis and, even if such resources were available, the Panel was advised much of the necessary data does not exist in a format that can be easily extracted.

Effective planning must also take into account the impact of changes across the whole criminal justice system. In that respect, the OCSC appears to have benefited little, if at all, from association with the larger Department of Justice. The Panel noted that projections and analysis of prisoner numbers exclude the numbers of prisoners accommodated in police cells. A separate set of projections is undertaken for offenders subject to Community Correctional dispositions. The Department of Human Services also undertakes projections in relation to the Senior Youth Training Centre population. Potentially, this could result in two separate sets of scenarios being developed for offending and sentencing patterns that are applied to the same group of offenders. There are also questions of the

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<sup>58</sup> Auditor-General of Victoria, op. cit.

impact of measures intended to divert offenders from prison into other corrective facilities or programs.

The Panel believes there is merit in undertaking joint projections encompassing all adult offenders, and in developing a model or models to forecast the impact of a number of variables at different stages of the criminal justice system.

### **8.3.2 System-Wide Facilities Planning**

A new 10-year Facilities Masterplan being developed by the Office of the Correctional Services Commissioner will guide the capital development and consolidation of the Victorian prison system. The plan will provide a strategic response to existing and continuing growth in demand for prison capacity, and will incorporate policy and program requirements for custodial infrastructure. It is important that this Plan consider not only the overall capacity needs of the system, but also develops a longer term strategic framework which takes account of the role of individual prisons within it.

Contribution to the development of the masterplan is being sought from a wide range of stakeholders by the initial use of a questionnaire. Consultation on the plan has been limited by a desire not to have the process overly influenced by the prison operators. The Panel believes limiting the operators' involvement in this way may be counterproductive. While the OCSC must be seen to be leading the planning process, prison operators have a contribution to make, particularly in respect of the most effective use of existing infrastructure given operational requirements, and the needs of different prisoner groups.

#### **Recommendations**

- 35.** The Panel recommends that forecasts of prisoner numbers be undertaken annually by the OCSC, with separate projections for male and female prisoners; that the OCSC track progress against projections on at least a quarterly basis; and that the OCSC undertake analysis of the reasons for significant variances between projections and actual numbers.
- 36.** The Panel recommends that, in developing the Masterplan for the Victorian prison system, the OCSC seek advice from prison operators regarding operational requirements and the likely impacts of any proposed changes.
- 37.** The Panel recommends that the initial Masterplan be completed by the OCSC by the end of 2000 and reviewed and updated six-monthly after that.

### **8.3.3 Developing a Research Capacity for the Correctional Services System**

One of the striking features of the correctional services system in Victoria, in contrast with other systems, is the paucity of individuals or organisations conducting research in the area of criminal justice.

One notable exception is the Australian Institute of Criminology, a Commonwealth statutory authority established in 1973 and located in Canberra. The Institute provides a national focus for the study of crime and criminal justice in Australia, and for the dissemination of criminal justice information. Its published papers and conference proceedings bring together a broad range of research on criminal justice issues including strategic planning, crime prevention, juvenile justice, rates of crime, deaths in custody and the court system. Under the terms of the *Criminology Research Act 1971*, its focus is on research from an Australia-wide perspective.

In some other countries, research is a function of the relevant government department responsible for that country's criminal justice system. This is the case, for example, in Canada where Correctional Services Canada has established a Research Department within the organisation that funds and manages research projects according to agreed annual priorities. Priority themes for the 2000–2001

research program include offender profile and needs, impact of programs and/or professional intervention on risk management and reintegration, overview of offenders' state of health and needs in this regard, the architectural design of the penitentiary of tomorrow, and energy consumption. The program is conducted in partnership and/or collaboration with several Canadian universities.

Such research has the potential to make a significant contribution to policy development and to support improvements in the effectiveness of correctional services (for example, in respect of recidivism). It can also play an important role in expanding public awareness of the issues that influence the correctional environment.

The Panel is aware that the establishment of a dedicated research unit within the Department of Justice may not be the most effective model for developing a research capacity for correctional services, nor the most appropriate model in an environment of limited resources. It notes that although such units have existed in other departments at other times, they have an alarming tendency to disappear when operational pressures mount.

Nonetheless, the Panel believes the development of a strong correctional research capacity within Victoria is very desirable. It proposes that the Department of Justice contribute funding for the establishment of a Correctional Research Institute in association with a Victorian university or universities.

It is suggested that the Deputy Secretary Justice Operations, in consultation with key stakeholders in the system, be responsible for the development and management of the research tender, together with the establishment of priorities for research.

#### **Recommendation**

- 38.** The Panel recommends that the Department of Justice allocate funding and call for tenders from Victorian universities for the establishment of a Correctional Research Institute.

## Chapter 9

# Summary and Conclusion

*I am not for or against private prisons; all I ask and expect is to be treated as a human being. And for the management of whatever prison I am placed in to be held accountable for their own actions as I am for mine.<sup>59</sup>*

Central to this report is the Investigation Panel's strongly held view that the quality of the overall service to prisoners and the community matters more than who manages the prison.

The Panel has not seen its task as addressing every problem of the current system, and has endeavoured to limit its recommendations to those issues it believes are critical to the future delivery of prison services in Victoria. These recommendations focus on measures that the Investigation Panel considers will enhance the cohesiveness of the prison system. The future focus should be on collaboration rather than competition, and on promoting the notion of a correctional services system rather than a correctional industry.

The Panel recognises that Victoria's prison system is in the midst of a period of transition. The introduction of a multi-provider environment presents substantial challenges for managing this system. It acknowledges that the introduction of private prison providers has limited the Government's ability to introduce speedy policy changes because of the need for each change to be agreed through an often complicated and lengthy process of contract negotiation. Nevertheless, the Panel has concluded that the quality of correctional services is more strongly influenced by systemic issues than by the private prison providers' operations per se.

The limitations of contractual arrangements are well known. As the Panel and others have noted, service delivery in private prisons is, to a large degree, determined by the clarity with which the requirements of the Prison Services Agreement with each private prison operator specify the standards required, and the degree to which they enable evaluation of an individual prison's performance. The current contracts do neither of these well. The Investigation Panel broadly supports the work done by KPMG Consulting and the proposed changes to the regime of Service Delivery Outcomes suggested in its report. The Panel has also made a number of recommendations regarding the need for greater clarity and specificity in the *Correctional Policy and Management Standards*.

To support these changes, the Panel has also proposed that a number of amendments need to be made to the *Corrections Act 1986* so that the roles and responsibilities of the Commissioner are more clearly specified in legislation. The duty of care that the Government owes to State prisoners cannot be abrogated by contracting out the operation of correctional institutions, so changes to the legislation to reinforce the private prison operators' duty of care responsibilities are also proposed.

Although the recommended changes should improve the contractual framework, the Panel has concluded that even the best of contracts will neither provide sufficient safeguards against poor operational performance, nor incentives for innovation. Consequently, the Panel has recommended the introduction of a program of quality reviews based on the principles of a 'healthy prison'. To encourage a more collaborative culture and a greater focus on processes that lead to organisational learning, it is proposed that these reviews should involve custodial staff from across the prison system as well as from the Office of the Correctional Services Commissioner. Their aim is to provide a comprehensive evaluation of the overall performance of each individual prison, including the quality

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<sup>59</sup> Prisoner, Fulham Correctional Centre

of its management and the effectiveness of its correctional services. The Investigation Panel believes reports from these reviews should be publicly available.

A major focus of submissions to the Investigation Panel has been the fragmentation of the corrections system at all levels. This is most apparent in the way health services are provided to prisoners. Consequently, the Panel has recommended the introduction of a new model for health care that should reduce the number of prisoner movements occurring under the current model that are so disruptive to prisoners' physical and emotional wellbeing. Fragmentation also results from the lack of specificity in correctional standards so prisoners are often frustrated by inconsistencies in approach to such issues as how much property they can have and what sorts of items are available for purchase in different prisons. The Panel has made a number of recommendations in this regard.

Inadequacies in prison programs, particularly in preparation for release, have been highlighted in submissions to the Panel. Community-based organisations have an important role in correctional services. They provide prisoners with contacts and access to services they may be able to continue to use after their release and, as such, have a significant role to play in assisting prisoners to reintegrate into the community. The Panel has noted the need for improvements in integrating the work of non-government agencies and voluntary organisations into prisons' operations.

The Investigation Panel's significant concerns regarding the Metropolitan Women's Correctional Centre's operations are mentioned throughout the report and in the Postscript to this report.

In terms of the other two private prisons, the Panel considers a number of the programs and practices being established at Fulham and Port Phillip deserve recognition.

Port Phillip is a very difficult prison to manage, particularly given the profile of its prisoners and the substantial increase in prisoner movements at the prison (mainly to and from hospital and court). The Panel was encouraged by the processes the prison has introduced to improve the practical and consistent application of procedures for the care of prisoners. A number of quality program initiatives were also noted, including the prisoner peer support scheme that involves prisoners being trained to support other prisoners as 'Prisoner Listeners', as peer educators in the Youth Unit, and as 'stabilisers' in the Intellectual Disability Services Unit.

The Panel also received a number of positive submissions about Fulham Correctional Centre's operations:

*As members of the FCCAG my colleagues and I are privy to a good deal of what goes on at Fulham and what life 'on the inside' is really like. The present arrangements in regard to security management, safety for prisoners, staff and visitors seems more than adequate, and the facilities at the prison, to me, seem quite superb.<sup>60</sup>*

The Panel was encouraged to hear of a number of examples of good correctional practices being developed at Fulham, including the programs to prepare prisoners for reintegration into society, the Prisoner Listener program, and the establishment of culturally-appropriate programs for Indochinese prisoners.

## CONCLUSION

The Investigation Panel believes it is now time for the correctional services system to move on. It is important for the future focus to be on measures that support the evolution of one prison system for Victoria, rather than on maintaining an artificial distinction between the public prison system and the private system. In a fragmented system, it is prisoners who suffer most.

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<sup>60</sup> Submission from Jim Pennell, Member Fulham Correctional Centre Advisory Group

The Panel fully supports the views expressed in the submission from Group 4 Securitas:

*The adversarial purchaser/provider relationship that traditionally (even necessarily) exists in many government contracts, is an inappropriate way of obtaining best value in the area of corrections. We envisage a closer partnership, but one that leaves uncompromised the OCSC's ability to ensure, and when necessary to enforce, compliance.*

The Investigation Panel believes implementation of its recommendations, particularly those relating to the way performance is monitored, changes to the health model and in the provision of programs, will reinforce the work already in progress in the Commissioner's Office, substantially improve the cohesiveness in the way correctional services are delivered in Victoria, and restore Victoria's correctional services as the nation's best.

*No-one has devised a perfect prisons system. It is an organic process and will continue to require changes and identify new needs.<sup>61</sup>*

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<sup>61</sup> Haemeyer, A., op. cit.



## Postscript – Metropolitan Women's Correctional Centre

*It doesn't matter if a cat is black or white,  
so long as it catches mice*

After the completion of the Panel's investigation, but before its report was finalised, the Government intervened to take control of the operations of the Metropolitan Women's Correctional Centre (MWCC).

The Investigation Panel has viewed the report from the Correctional Services Commissioner and found that many of the observations in that report are consistent with observations made by members of the Investigation Panel in respect of MWCC. The findings of the Panel in relation to MWCC are set out below.

### **The Panel's Findings**

The Panel visited MWCC on four occasions during the course of its investigations. It was left with a clear impression that management of the prison fell well short of the Panel's expectations, a view confirmed in discussions and reflected in numerous submissions.

*The Deer Park facility faces particular challenges because of its built environment. It is, effectively, the only female prison in the State and must house low, medium and high security prisoners as well as providing for a protection population. Even accepting these challenges prisoner safety at Deer Park facility is at an unacceptably low level. Incidents of violence and intimidation are rife.<sup>62</sup>*

It was clear prisoners, and in some cases visitors, did not feel safe within the prison. Although individual correctional officers appeared competent, the prison atmosphere in general did not give the impression that staff were in control. This contributed to a large number of protection prisoners, restrictions on regimes and prisoner movements, a significant level of inactivity as prisoners were locked in their accommodation units, and a reluctance by some non-government organisations and individuals to enter the prison to provide services.

This impression of the lack of safety at the prison permeated all key areas of prison operations: the lack of confidence of staff in dealing with prisoners, the restrictions on access to programs, frustrations with the visits program, and the inadequacy of the health service. Each of the issues contributed to and was, in turn, reinforced by the lack of effective prisoner management.

Although many of these issues were previously identified in other reports, and indeed led to the issuing of three default notices, there did not appear to be any urgency in bringing about the required changes on the part of the prison Operator.

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<sup>62</sup> Submission from Richard Bourke, Secretary, Criminal Bar Association.

## Relationships Between Management, Staff and Prisoners

*Prior to the appointment of the most recent Manager, a weekly meeting of prison staff and service providers within the prison occurred. This has not taken place for seven months and has contributed to problems in the coordination and profile of services.<sup>63</sup>*

Since its commissioning only four years ago, there have been numerous changes of senior management at the Prison. There have been four General Managers, a high turnover within the management team, and a high level of turnover of custodial staff, particularly in the first year of operation. The Panel heard that this instability in the management structure had led to constant changes in the regimes governing the women's lives in the prison.

*When this is combined with an inconsistent application of the rules and an inability to access the operating manual, the result is women held under arbitrary, capricious and unknown rules.<sup>64</sup>*

Communication between management and staff, and between staff and prisoners, was a matter of considerable concern to the Panel. Staff reported a widening gap between themselves and management, with few opportunities for dialogue. Staff told the Panel that communication was 'mainly by memorandum'.

The lack of experience and expertise, and the limitations in relation to staff training and development, resulted in staff who appeared to lack confidence in themselves, in each other, and in management. Staff said they felt 'bunkered and isolated'. This culture of blame had been compounded by constant media and public scrutiny. Rumours regarding the possible future of the prison had abounded for several months and contributed to an overall sense of uncertainty.

## Correctional Programs

A number of issues relating to the provision of appropriate prisoner programs were raised with the Panel including:

- inadequate or inappropriate physical facilities, resulting in individual counselling sessions taking place in open areas of the prison;
- limited access by protection prisoners to programs, particularly education;
- lack of programs for prisoners in the management unit;
- frustration at the lengthy waiting lists for certain programs, which limited access by prisoners serving short sentences;
- no evidence that there had been a comprehensive exercise to scope the needs of women prisoners (including their education and vocational needs), or that programs had been designed taking such needs into account;
- absence of activities, including education and recreation, in the evenings and at weekends;
- lack of evaluation of the effectiveness of programs; and
- problems with lawyers gaining access.

*On some occasions professional visits have resulted in whole units being locked down in order to release staff to supervise the visit. The requirement of notice is inconsistent with the availability of many lawyers who must find time for visits during the day around court commitments, which are frequently unpredictable.<sup>65</sup>*

<sup>63</sup> Submission from the Reverend Ray Cleary, Melbourne Citymission.

<sup>64</sup> Submission from Federation of Community Legal Centres.

<sup>65</sup> Submission from Richard Bourke, Secretary, Criminal Bar Association.

The Panel was also concerned about the adequacy of drug and alcohol programs. Little effort appeared to have been made to encourage women to participate in such programs in a prison known to have a very high proportion of prisoners with substance abuse problems. MWCC has a special 10-bed unit dedicated to an intensive drug rehabilitation program; however, there were only six female prisoners undertaking the program at the time of the Panel's visits. The Panel was informed that there was a proposal to move the program to a smaller accommodation unit because of the few women participating in the program, but there was no strategy to increase participation in this much needed program.

### **Health Service Provision at MWCC**

Since the prison commenced operation in August 1996, there have been four providers of health services at MWCC.

A number of specific issues and allegations have been raised in previous inquiries, and were again highlighted in submissions to the Panel. These included:

- allegations of over-medication of women prisoners for management reasons;
- constant changes of times at which medication is issued;
- unavailability of custodial staff to escort prisoners to the medical centre and to access external medical treatment;
- limited access to psychiatric professionals; and
- employment of male nurses in the medical centre.

Particular problems arise for women at Tarrengower who place their health at risk by refusing medical treatment when that treatment necessitates a return to MWCC.

On 20 and 21 July 2000, Associate Professor Peter Doherty, Dr John Sharman and Dr Anne Mijeh conducted a clinical audit of MWCC's health services. The results were made available to the Panel during the preparation of its report.

The audit team did not conclude that prisoners at MWCC were over-medicated, but among its findings were:

- many examples where the initial assessment of risk was not followed by ongoing reviews, clinical issues that were identified were not adequately followed up, and 'at risk' prisoners had no comprehensive management plans developed;
- data on the prevalence of individual health issues, use of the health service, outcome data and other relevant information were not available;
- critical incident reviews and a multidisciplinary approach to the assessment, review and management of health issues were not present; and
- the health service was understaffed and underresourced.

The audit team made a number of recommendations to Corrections Corporation of Australia to improve the health services at MWCC. The Investigation Panel would want to add to those recommendations the recommendation for a health survey of women prisoners to establish benchmarks for their health services (see Recommendation 42).

## **Family Contact**

The importance of maintaining contact with families cannot be underestimated. For women prisoners who are also mothers, contact with their children is critical to their morale and to prospects of rehabilitation.

Prisoners at MWCC, particularly those in the protection unit, reported a number of frustrations with the visits program. The main concern raised with the Investigation Panel related to visitors being kept waiting for lengthy periods as a result of the clearance procedures and/or the availability of a custodial officer to escort prisoners to the visit centre. The lack of suitable processing and waiting areas at the front gate, and the inaccessibility of the prison by public transport, were also raised.

*The experience of imprisonment only serves to reinforce the marginalisation of these women and creates maximum disruption in their lives and those of their families. Most women lose their housing and possessions when they enter prison, and for those with children there is a significant emotional toll for them and their families.<sup>66</sup>*

Given the importance of maintaining contact with family and friends, the new management team needs, as a matter of urgency, to improve arrangements for prisoner liaison with their families and operation of the visits program.

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<sup>66</sup> Submission from the Reverend Ray Cleary, Melbourne Citymission.

## Summary of Recommendations

**Chapter 1 – Introduction** sets out the terms of reference of the investigation, and provides an overview of the emerging gains and issues arising from the delivery of prison services by private providers in Victoria.

**Chapter 2 – The Corrections System in Victoria: An Overview** provides background regarding the structure and scope of the prison system.

**Chapter 3 – The Contractual Arrangements** examines the scope for streamlining and simplifying contractual management arrangements, and the flexibility that the contracts provide for addressing changes to requirements or resolving performance issues.

**Rec 1.** *The Panel recommends that the duties of care owed by the contractor to the State and to the prisoners in their care should continue in unfettered form and be protected by an appropriate amendment to the Corrections Act 1986.*

**Rec 2.** *The Panel recommends that the Minister for Corrections amend the provisions of the Prison Services Agreements to:*

- (a) provide for the issue of a default notice in any case where there is a breach of the Contractor's obligations under the contract or of those imposed by law; and*
- (b) ensure that the Secretary, Department of Justice, or an officer nominated by the Secretary, is involved in the process of selection of a General Manager/Director of a private prison.*

**Rec 3.** *The Panel recommends that the Minister for Corrections amend the Prison Services Agreements relating to Fulham Correctional Centre and Port Phillip Prison to include an indemnity clause similar to clause 71 in the Prison Services Agreement for the Metropolitan Women's Correctional Centre.*

**Rec 4.** *The Panel recommends that the Minister for Corrections call for fresh tenders for the operation of the private prisons whenever there is an opportunity to do so.*

**Chapter 4 – Monitoring Performance** examines the adequacy of current mechanisms to assess how well each prison is performing, and proposes a framework of qualitative reviews.

**Rec 5.** *The Panel recommends that the OCSC review the Correctional Management and Policy Standards for Prisons to enhance the extent to which they support the application of consistent practices and procedures for prisoners. The review should examine the extent to which the Standards can support an evaluation of the quality of service provision.*

**Rec 6.** *The Panel recommends that the OCSC develop a model of quality service provision based on a set of characteristics of a 'healthy prison'.*

**Rec 7.** *The Panel recommends that the OCSC refine its current performance management framework to include qualitative and quantitative measures of performance that encompass input, process, output and outcome evaluation.*

- Rec 8.** *The Panel recommends that the OCSC review the system of service provider reports and audit trails to ensure only relevant data are collected, and to avoid duplication of effort.*
- Rec 9.** *The Panel recommends that the Correctional Services Commissioner ensure the Monitoring and Review Unit within the OCSC establishes a schedule of quality reviews (as described in this report) for all prisons; and that these quality reviews be undertaken by teams that include personnel seconded from providers and professionals representing other disciplines or services where appropriate, commencing from 1 January 2001.*
- Rec 10.** *The Panel recommends that the Secretary, Department of Justice identifies and oversees the transfer of appropriate staff from CORE to the OCSC to support the proposed program of quality reviews.*
- Rec 11.** *The Panel recommends that the Correctional Services Commissioner:*
- (a) develops and implements a communication strategy that includes making information available to the public about the performance of Victoria's prisons; and*
  - (b) reports at least annually on the activities of the corrections system in Victoria.*

**Chapter 5 – Staffing** discusses issues relating to the recruitment, selection and training of staff as well as staffing models currently operating in the three private prisons.

- Rec 12.** *The Panel recommends that the OCSC develop a personnel manual that sets out uniform standards for recruitment policy and procedures in Victoria's prison system.*
- Rec 13.** *The Panel recommends that the Correctional Services Commissioner support the implementation of the traineeship model across all Victorian prison providers.*
- Rec 14.** *The Panel recommends that the OCSC, in consultation with prison operators, develop criteria and standards for assessment of training.*
- Rec 15.** *The Panel recommends that the OCSC establish a Custodial Officer Education and Training Advisory Committee, consisting of a management and a training representative from each prison provider, meet at least twice each year to assess, review and make recommendations on all training issues.*
- Rec 16.** *The Panel recommends that the proposed Custodial Officer Education and Training Advisory Committee investigate the feasibility of requiring that staff promoted to management positions have as a basic qualification a Diploma in Correctional Administration/Frontline Management or Diploma in Criminology (Prison Studies) or equivalent, by the year 2005.*

**Chapter 6 – Managing Prisons and Prisoners** examines a number of key aspects of prisoner management and makes recommendations for changes aimed at improving the effectiveness of correctional programs, and promoting cohesiveness across the correctional services system.

- Rec 17.** *The Panel recommends that the OCSC model of Differentiated Case Management be introduced across all levels of prison operation.*
- Rec 18.** *The Panel recommends that the OCSC undertake an early review of the structure and content of prisoners' Individual Management Plan files for the purpose of establishing a revised file management framework. This should include consideration of electronically automating the system of recording, maintaining and transferring prisoner records.*

- Rec 19.** *The Panel recommends that the OCSC amend current schedules within the context of the structured day to enable a more flexible mix of work, education and other structured programs based on the needs of the prisoner, as identified in their Individual Management Plan.*
- Rec 20.** *The Panel recommends that the Australian Vice-Chancellors Committee, in consultation with the Commonwealth Department of Education, Training and Youth Affairs, develop a consistent policy of higher education provision for adult prisoners. This could include the recognition of tertiary-enrolled adult prisoners as belonging to a category of educationally disadvantaged students, the allocation of university equity funding to provide tutor visits, and the development of standardised pathways to enhance opportunities for prisoners to access higher education.*
- Rec 21.** *The Panel recommends that the Department of Education, Employment and Training and the Department of Justice:*
- (a) jointly support, through the budgetary process, increased funding of the education and training of prisoners in both public and private prisons; and*
  - (b) strongly pursue the proposals before the Drugs Policy, Crime Prevention and Corrections Cabinet Sub-Committee with a view to introduction of the proposed reforms by 2001.*
- Rec 22.** *The Panel recommends that the Department of Education, Employment and Training ensure, in future, that the price paid for the delivery of corrections education and training does not discriminate between public and private prisons.*
- Rec 23.** *The Panel recommends that education and training programs for women have a focus on life skills, self-management skills and self-esteem and that this be reflected in the planning and advice of the Corrections Industry Training Board.*
- Rec 24.** *The Panel recommends that the OCSC require the providers of all drug treatment programs to develop comprehensive evaluation components that are to be built into the program design, and ensure results are continually monitored to determine their effectiveness and changing treatment trends.*
- Rec 25.** *The Panel recommends that OCSC require that drug and alcohol programs include individual tailored relapse prevention plans that identify 'high-risk' situations and factors that assist the individual prisoner to develop effective coping mechanisms to reduce the recurrence of drug use.*
- Rec 26.** *The Panel recommends that the OCSC develop a plan, in consultation with non-government organisations, for the involvement of appropriate non-government organisations in the delivery of pre-release programs and provision of post-release support for prisoners.*
- Rec 27.** *The Panel recommends that the Minister seek additional funding to be provided for the delivery of post-release programs by non-government organisations.*
- Rec 28.** *The Panel recommends that the OCSC undertake an analysis of the specific knowledge, skills, mix of experience and attitudes required for effective management of women prisoners; that the results of this analysis be incorporated into staff training standards relating to women's prisons; and that initial training and ongoing development for staff working with women prisoners be tailored to include modules specific to the needs of women prisoners and effective strategies for working with them.*
- Rec 29.** *The Panel recommends that the OCSC continue to support the Official Visitors Program.*

- Rec 30.** *The Panel recommends that the OCSC undertake a review of chaplaincy services to identify any initiatives that could be taken to strengthen these services for prisoners.*
- Rec 31.** *The Panel recommends that the Department of Justice establish and fund a Prisoners' Legal Service attached to, or in association with, an existing Community Legal Centre.*
- Rec 32.** *The Panel recommends that research into the impact of overcrowding be a priority project to be undertaken by the proposed Correctional Research Institute.*
- Rec 33.** *The Panel recommends that the Minister for Corrections:*
- (a) contacts Telstra to seek agreement for a reduction in the telephone costs for Victorian prisoners;*
  - (b) seek agreement from the appropriate Ministers in other States and Territories for a joint approach to Telstra regarding changes to the conditions under which Telstra operates the Arunta Telephone System such that costs of prisoner telephone calls are reduced; and*
  - (c) seek agreement from the Commonwealth Minister for Communications for his support for further approaches through the Corrections Ministerial forum to change the conditions under which Telstra operates the Arunta Telephone System such that costs of prisoner telephone calls are reduced.*
- Rec 34.** *The Panel recommends that the Prison Fire and Safety Advisory Group be reconvened.*

**Chapter 7 – Health Services** considers the provision of health services to prisoners which, along with safety and security, is central to their care and can make a major contribution to humane treatment and the orderly management of prisons.

- Rec 35.** *The Panel recommends that the Correctional Health Service move toward a single provider, under a Medical Director, with appropriate arrangements to deliver primary, secondary and tertiary medical services locally, as far as is practicable; and that the Medical Director have oversight of drug and alcohol services.*
- Rec 36.** *The Panel recommends that the Department of Justice become responsible for correctional health services policy and monitoring; and that a unit within the OCSC be established for this purpose reporting directly to the Commissioner.*
- Rec 37.** *The Panel recommends that any budget bids be developed in conjunction with the Corrections Health Board that should have oversight of the new unit.*
- Rec 38.** *The Panel recommends that the Minister for Corrections and the Minister for Health appoint three additional members to the Corrections Health Board: an independent Chairperson, and two other independent members.*
- Rec 39.** *The Panel recommends that the Department of Justice fund a Chair in Correctional Health at a Victorian university.*
- Rec 40.** *The Panel recommends that the Department of Justice seek a significant increase in resources for correctional health.*
- Rec 41.** *The Panel recommends that the Minister for Corrections:*
- (a) seek agreement from the appropriate Ministers in other States and Territories for a joint approach to the Commonwealth Minister for Health to provide Medicare cover for prisoners; and*

- (b) *seek agreement from the Minister for Health for his support for further approaches through the Health Ministerial forum to change the policy that disallows prisoners from receiving Medicare benefits.*

**Rec 42.** *The Panel recommends that the Commissioner, in conjunction with the Department of Human Services:*

- (a) *arrange for the conduct of a survey of the health status of female prisoners to establish a benchmark of female prisoner health;*
- (b) *undertake a survey of the health status of male prisoners in light of the experience gained in conducting the audit of the health of female prisoners; and*
- (c) *undertake further surveys of the health status of female and male prisoners every two years.*

**Chapter 8 – Integrating Victoria's Corrections System** examines the structural arrangements for managing Victoria's prison system, and proposes some changes to existing roles and responsibilities to enhance the Department of Justice's capacity to manage the system in a more integrated and cohesive way.

**Rec 43.** *The Panel recommends that the contract management function be transferred from Justice Policy to the OCSC, together with the resources attached to this function.*

**Rec 44.** *The Panel recommends that any future tender process be managed outside the entirety of existing operations to ensure the utmost probity, but that experienced employees be able to provide advice to inform the process.*

**Rec 45.** *The Panel recommends that the Secretary Department of Justice create and fund a senior facilities position within the Office of the Correctional Services Commissioner to provide ongoing advice on, and review of, prison facilities strategic planning.*

**Rec 46.** *The Panel recommends that infrastructure development proposals for public prisons be reviewed against an overall facilities MasterPlan in the same way as private prisons.*

**Rec 47.** *The Panel recommends that the Board of CORE – the Public Correctional Enterprise comprise up to five members; the Deputy Secretary Justice Operations and at least two or three non-departmental members.*

**Rec 48.** *The Panel recommends that the Secretary Department of Justice, the Correctional Services Commissioner and the proposed Board of CORE – the Public Correctional Enterprise, review the allocation of staff between the OCSC and CORE to minimise duplication of functions and resources.*

**Rec 49.** *The Panel recommends that the Secretary Department of Justice create and fund a position of Deputy Commissioner within the Office of the Correctional Services Commissioner to assume responsibility for managing operational issues where the OCSC needs to be involved.*

**Rec 50.** *The Panel recommends that the Secretary, Department of Justice develop clear statements of roles, responsibilities and reporting relationships for all key players in the corrections system. These statements should reinforce strongly the view that the Commissioner is unambiguously the 'head of system' for corrections in Victoria, and that should be incorporated into the Corrections Act 1986.*

- Rec 51.** *The Panel recommends that forecasts of prisoner numbers be undertaken annually by the OCSC, with separate projections for male and female prisoners; that the OCSC track progress against projections on at least a quarterly basis; and that the OCSC undertake analysis of the reasons for significant variances between projections and actual numbers.*
- Rec 52.** *The Panel recommends that, in developing the Masterplan for the Victorian prison system, the OCSC seek advice from prison operators regarding operational requirements and the likely impacts of any proposed changes.*
- Rec 53.** *The Panel recommends that the initial Masterplan be completed by the OCSC by the end of 2000 and reviewed and updated six-monthly after that.*
- Rec 54.** *The Panel recommends that the Department of Justice allocate funding and call for tenders from Victorian universities for the establishment of a Correctional Research Institute.*

**Chapter 9 – Summary and Conclusion** highlights some of the major themes arising from the review, and notes that the recommendations are based on the Panel's views that the quality of the overall service to prisoners and the community matters more than who manages the prison.